



Dipåtamenton Kontribusion yan Adu'ána

DEPARTMENT OF

# REVENUE AND TAXATION

GOVERNMENT OF GUAM

Gubetnamenton Guåhan

EDDIE BAZA CALVO, Governor / Maga'láhi  
RAY TENORIO, Lt. Governor / Tiñente Gubetnadot

JOHN P. CAMACHO, Director  
Akto Direktot  
MARIE M. BENITO, Deputy Director  
Sigundo Direktot

The Honorable Judith Won Pat  
Speaker  
32<sup>nd</sup> Guam Legislature  
155 Hesler Street, Suite 201  
Hagatna, Guam 96910

32-13-874  
10/16/13  
84412  
Received: [Signature]

Re: Electronic Copy Filing of Banking & Insurance Board Meeting Agenda & Minutes,  
September 5, 2013

Dear Speaker Judith Won Pat:

Pursuant to Public Law 31-77, Section 22, Reporting Requirements for Boards and  
Commissions, the Department submits the above reference agenda and minutes.

In compliance with the above-cited electronic reporting requirements, the attached documents  
are hereby transmitted to your attention for your review.

Should you have any question, please feel free to contact me at (617) 635-7664 or John Q.  
Carlos, Regulatory Programs Administrator, at 635-1846.

Sincerely,

*Artemio B. Ilagan*  
ARTEMIO B. ILAGAN

Chairman, Banking & Insurance Board,  
Banking & Insurance Commissioner

/Ams

874

2013 OCT 16 AM 9:32 M



**OCT 15 2013**

The Honorable Tina Muna Barnes  
Legislative Secretary  
The 32nd Guam Legislature  
155 Hesler Place, Suite 101  
Hagatna, Guam 96910

Re: Regulations under the Guam Secure and Fair Enforcement of Mortgage Licensing Act of 2010  
(Guam SAFE Act Regulations)

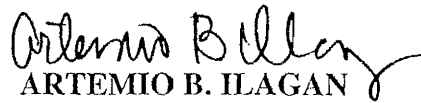
Dear Senator Tina Muna Barnes:

Please find attached, the following documents on the adoption of the Regulations for the Guam Secure and Fair Enforcement of Mortgage Licensing Act of 2010, by the Banking and Insurance Board.

<u>Item Number</u>	<u>Description</u>
1	Public Notices for the Public Hearing on the Guam SAFE Act Regulations, and the Banking & Insurance Board Meeting, March 14, 2013.
2	Banking & Insurance Board Meeting Agenda, March 14, 2013.
3	Attendance Sheets for the Public Hearing on the Guam SAFE Act Regulations, and the Banking & Insurance Board Meeting, March 14, 2013.
4	Public Notices for the Public Hearing on the Guam SAFE Act Regulations, and the Banking & Insurance Board Meeting, May 9, 2013.
5	Banking & Insurance Board Meeting Agenda, May 9, 2013.
6	Minutes of the Public Hearing for the Guam SAFE Act Regulations, and the Banking & Insurance Board Meeting, May 9, 2013.
7	Attendance Sheets for the Public Hearing on the Guam SAFE Act Regulations, May 9, 2013.
8	Letter from the Office of the Attorney General, July 9, 2013, approving the SAFE Act Regulations as to form.
9	Public Notices for the Public Hearing on the Guam SAFE Act Regulations, and the Banking & Insurance Board Meeting, July 11, 2013.
10	Banking & Insurance Board Meeting Agenda, July 11, 2013.
11	Minutes of the Public Hearing for the Guam SAFE Act Regulations, July 11, 2013.
12	Attendance Sheets for the Public Hearing on the Guam SAFE Act Regulations, July 11, 2013.

- 13 Public Notices for the Public Hearing on the Guam SAFE Act Regulations, and the Banking & Insurance Board Meeting, September 5, 2013.
- 14 Banking & Insurance Board Meeting Agenda, September 5, 2013.
- 15 Minutes of the Public Hearing for the Guam SAFE Act Regulations, and the Banking & Insurance Board Meeting, September 5, 2013.
- 16 Attendance Sheets for the Public Hearing on the Guam SAFE Act Regulations, September 5, 2013.
- 17 Regulations for the Guam Secure and Fair Enforcement for Mortgage Licensing Act of 2010, as adopted by the Banking and Insurance Board on September 5, 2013.
- 18 Economic Impact Statement for the adopted Regulations under the Guam Secure and Fair Enforcement for Mortgage Licensing Act of 2010.

Sincerely,



**ARTEMIO B. ILAGAN**  
Banking & Insurance Commissioner

RDT

## Another island governor facing impeachment Ashley Babauta accepted to national society of scholars

POHNPEI (Pacnews) – Five Pohnpei senators have proposed a resolution to impeach Gov. John Ehsa. Though the proposed resolution was signed on Feb. 26, according to the Legislature's Public Information Officer Salter Lohn, it only landed in the mailboxes of staff members two days ago.

The proposed resolution contains 19 articles each containing certain accusations. Seven of the articles have to do with the governor's implementation of the School Lunch program. Five of the articles have to do with the

funding used to establish a World Park office. Three of the articles have to do with the Pohnpei Utilities Corporation. Two of the articles deal with alleged problems with the hiring of Yalmer Helgenberger as consultant for the Office of Fisheries and Aquaculture. One article makes accusations regarding the governor's handling of the former Pohnpei Fisheries Corporation dock. The last article has to do with the governor's extensive travel.

Though past legislatures have begun impeachment proceedings against former governors,

none of them have ever ended in a conviction.

In the event this proposed resolution of impeachment does make it all the way through to trial and results in the dismissal of the governor, the Pohnpei State Constitution says the lieutenant governor would fill the position. Statute dictates how vacancies in the Office of Lt. Governor are filled. The five signers of the proposed resolution for impeachment were Sens. Francisco L. Ionnis, Aussen T. Lambert, Daliker D. Daniel, Magdalena A. Walter, and McGarry Miguel.

## Sablan to join boot camp training for Marine recruits

By Junhan B. Todeno  
junhan.todeno@mvarietly.com  
Variety News Staff

SAIPAN – Education commissioner Rita A. Sablan is among educators that have been invited to experience boot camp training with new Marine recruits in June.

Sablan last week met with U.S. Marine Sgt. Maj. Michael Mack, recruiting station head from Orange County, the largest recruiting station in the U.S., and is in charge of recruiting for the entire Pacific region at the Public School System office.

Mack, who was accompanied by Sgt. Gregorio Comeo, the Marine Corps recruiter for the CNMI, discussed with Sablan the highlights of the Marine

combat training.

Aside from learning how they will train Marine recruits, Mack said they will also give the education commissioner a tour around San Diego.

"I am very pleased to collaborate with the Marine Corps," Sablan said, as she continued to commit her support for the recruitment process in the schools of the CNMI.

Mack told the education commissioner how the early training can help motivate and focus the students.

He also emphasized the many benefits of Marine Corps training, including tuition assistance and grant programs.

In an interview after their meeting, Mack said Sablan

would be a great help to their recruitment process because she has great access to the students and the faculty.

"So when she goes to experience in our educators workshop she will see how our recruits be indoctrinated and be able to come back and pass the message on what they learned in recruit training and how they're being treated in the training – the values, exercise, good health and how we instill discipline," he said.

There have been educators that have joined in the past but from the CNMI, only Sablan is scheduled this year, he said.

Mack said they wanted more people in the education sector to experience the training.

By Junhan B. Todeno  
junhan.todeno@mvarietly.com  
Variety News Staff

SAIPAN – The National Society of High School Scholars has accepted Ashley Babauta as a member for her achievements in scholastic excellence.

The announcement was made by NSHSS founder and chairman Claes Nobel, a senior member of the family that established the Nobel Prizes, who said they recognized top scholars who have achieved superior academic excellence.

"On behalf of NSHSS, I am honored to recognize the hard work, sacrifice and commitment that Ashley has demonstrated to achieve this exceptional level of academic excellence," Nobel said, adding Babauta is now a member of a unique community of scholars, a community that represents the very best hope for the future.

NISS President James Lewis said its vision is to build a dynamic international organization that connects members with meaningful content, resources and opportunities.

"We aim to help students like Ashley build on their academic success and enhance their skills and desires to have a positive impact on the global community," he said.



Ashley Babauta

In an interview, Babauta said her membership to the society of scholars would be a stepping stone of her educational pursuit.

Babauta never thought she would be accepted by the society, she said, but "my hard work paid off."

A senior, Babauta said she will take up criminal justice in college and avail herself of the scholarship program offered by the society.

She is the daughter of Urbano D. Babauta Jr. and Luvena C. Babauta of Kagman III.

Her mother said: "We fully support her educational endeavors. We are always there for her. As parents, we are there to guide and encourage educational achievements so that they can be fully prepared to face the challenges of the world."

## Audit still ongoing for gov't Credit Union

By Alexie Villegas Zotomayor  
avz@mvarietly.com  
Variety News Staff

SAIPAN – The Commonwealth Government Employees Credit Union may finally have its books audited after three years.

Press Secretary Angel Demapan and Credit Union board chairman Angel Demapan said, "The CGECU is currently being audited by Deloitte pursuant to a contract awarded them by the Office of the Public Auditor."

Variety earlier reported that the Credit Union will be able

to look into withdrawal applications made by its members as soon as its audit is completed.

For Demapan, "The auditors have been combing through pertinent documents of the Credit Union over the past couple of weeks."

He said they anticipate sometime this week or next week, "the auditors will be able to give the Credit Union a projected timeframe for the completion of the audit."

"As the Credit Union has disclosed earlier, once this long-

awaited audit is completed, the Credit Union will then take the necessary steps to address members' requests," Demapan said.

Aside from Demapan, the other Credit Union board members are Michelle Tugabuel and Darlene Igisomar.

Last year, there were requests made by Credit Union members to pull out their money, however, due to the board's lack of quorum and the need to conduct the audit, no request has been approved yet.

## CPA courtesy resignations still under review

By Alexie Villegas Zotomayor  
avz@mvarietly.com  
Variety News Staff

SAIPAN – The courtesy resignations made by the members of the ports authority board remain under review.

Press Secretary Angel Demapan said, "The governor has received courtesy resignations from the CPA board members. These resignation letters are still under advisement at this time."

Demapan said that as soon as the governor and lieutenant governor

have completed their review, "a decision on these courtesy resignations will be forthcoming."

Variety asked Demapan how soon replacements can be made if these resignations were accepted by Gov. Eloy S. Inos.

Demapan said, "When a vacancy exists on the board, the governor is then able to make new nominations to the Senate for their advice and consent."

Meanwhile, back in January this year, the CPA board had indicated that pending the outcome

of the impeachment proceedings, if the governor were impeached, then the directors would have to make their courtesy resignations.

The CPA board had recently elected its officers and expressed confidence in Jose R. Lifofoi's leadership of the board.

Prior to resigning their posts, the CPA board members were Lifofoi, Manuel P. Villagomez, Margarita T. Prater, Benigno M. Sahlban, Barry Tores, Fermin M. Sakisat and Concepcion O. Igisomar.

### NOTICE TO THE PUBLIC

EFFECTIVE APRIL 8, 2013, GHURA'S NEW OPERATING HOURS WILL CHANGE FROM:

7:00 A.M. - 5:00 P.M.

to

8:00 A.M. - 5:00 P.M.

Monday through Friday; closed holidays and weekends



Department of Revenue and Taxation  
Government of Guam  
P.O. Box 23607 GMP, Guam 96921  
Tel: 635-1817/1819 Fax No: 633-2643



### PUBLIC NOTICE

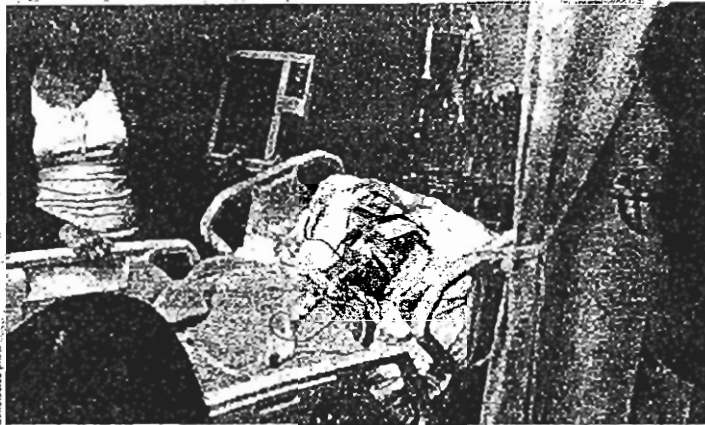
The Banking and Insurance Board will hold a public hearing on Thursday March 14, 2013, 2:00 p.m. at the Department of Revenue and Taxation Building, Director's Conference Room, at 1240 Army Drive, Barrigada, Guam.

One of the agenda is the presentation to the Board for the approval of the proposed and revised regulations for The Secure and Fair Enforcement of Mortgage Licensing Act of 2010 pursuant to 18 GCA Chapter 36, Mortgages, starting on Section 36301.

ARTEMIO B. ILAGAN  
Banking and Insurance Commissioner

# Beating victim's mother hits AGO's deal with suspects

By Geraldine Castillo  
geraldine@mvguam.com  
Variety News Staff



Cameron R. Masnayan, 19, was brutally beaten with a bat and had to be admitted to a Hawaii hospital for treatment.

IT HAS been a year since Cameron R. Masnayan, 19, was brutally beaten with a bat and left in a coma for several days. While his assailants have pleaded guilty for their roles in the incident, his mother has aired some concerns with the way the Attorney General's Office handled the case.

Masnayan and his mother, Barbara Tayama, returned to Guam in January after spending 10 months off-island to undergo numerous surgeries and rehabilitation.

Upon their return, Tayama continued to advocate for her son by trying to work closely with the AGO to address various concerns, including restitution and the plea deals that the prosecutors cut out for the suspects.

Throughout the duration of the case, which began March of last year, the government had anticipated the return of Masnayan before proceeding to trial. Although Masnayan returned, all suspects eventually signed plea agreements in the case.

Tayama said Assistant Attorney General David Rivera, the first prosecutor who handled the case, informed her on Aug. 14, 2012 of the proposed plea

offers for each of the suspects — William San Nicolas Jr., and brothers Daniel Alan Rosal and Michael Gregory Rosal — to which she agreed with.

### Lesser offense

However, Tayama had to find out through the media in February that Daniel Rosal pled guilty to a lesser offense of assault as a misdemeanor with a maximum sentence of one year imprisonment — which was not the same plea agreement Rivera informed her of.

"Daniel Rosal did not hit Cam with the bat but did kick him and so he would be offered a plea to second-degree aggra-

vated assault with a sentence range of two to eight years," Rivera wrote to Tayama. Due to her inability to obtain answers from the reassigned prosecutor Assistant Attorney General Brian Gallagher as to the lesser plea, Tayama said she decided to channel her concern to Chief Prosecutor Basil O'Mallan on Feb. 25.

"I finally received a reply from Attorney O'Mallan asking that I remain patient and give him some time to look into the matter with Attorney Rivera and Attorney Gallagher," she said. "After he gets up to date with our case, he will call me sometime this week. By then, it'll be two weeks since the change of plea."

Tayama also questioned whether the AGO questioned any of her son's doctors as to the extent of his injuries.

"Cameron was never interviewed about the case or consulted," she said. "Were the doctors interviewed to corroborate the extent of injuries sustained to indicate this was attempted murder? How then can they ever resort to lessening the plea to assault as a misdemeanor?" she said, referring to Daniel Rosal's plea agreement.

Tayama said one of her son's doctors recommended that he not testify should the case go to trial, which was why she had agreed to the plea offers. Masnayan suffered from traumatic brain injury as a result of the March 17, 2012 beatings outside a Harmon establishment.

Despite her many attempts to get answers by contacting the AGO, she felt there was a lack of urgency and communication

from the agency.

### AGO response

Meanwhile, the AGO was contacted yesterday for a response to concerns raised to the media by Tayama.

"Attorney General Leonardo M. Rapadas and Chief Deputy Attorney General Phillip J Tydingco met with Chief Prosecutor Basil O'Mallan III and Supervisor Prosecuting Attorney David Rivera to discuss matters related to the Masnayan case," AGO spokesperson Carlina Charfauros said in a statement.

Charfauros said the AG scheduled a meeting for today with the Masnayan family prior to the release of their statement to discuss their concerns.

"Comment will be reserved until he can address the family personally," she said.

However, when contacted by Variety last night, Tayama said there was no meeting — to her knowledge — arranged with the Attorney General.

She said she has been trying to schedule an appointment with the Attorney General, although she neither received a call nor confirmed to meet with them as of yesterday.

Tayama in her statement to the media said she and her son "have learned how to forgive but don't condone what was done as an end result," on the part of the agencies she expected assistance from.

"It is easier to forgive and love versus having so much anger and hate and still having to adjust to Cameron's 'new normal,'" she said.

**PUBLICATION NOTICE**

In accordance with the provisions of Guam Code Annotated, Title XI, Chapter III, Section 3315, notice is hereby given that:

**BYUN, MIKYUNG**  
dba: HIGH 57 KARAOKE LOUNGE

has applied for a Class: 4 General On Sale Alcoholic Beverage License, said premises being marked as Lot: 5137-31-1-1 5137-3-12 5137-3-1-1R2 Tumon Bay Shopping Center, Tumot.

Department of Revenue and Taxation  
Government of Guam  
P.O. Box 23607 GNF, Guam 96921  
Tel: 635-1817/1819 Fax No: 633-2643

**PUBLIC NOTICE**

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One of the agenda is the presentation to the Board for the approval of the proposed and revised regulations for The Secure and Fair Enforcement of Mortgage Licensing Act of 2010 pursuant to 18 GCA Chapter 36, Mortgages, starting on Section 36301.

**ARTEMIO B. ILAGAN**  
Banking and Insurance Commissioner

# Cepeda pleads not guilty to murder

By Geraldine Castillo  
geraldine@mvguam.com  
Variety News Staff

EMMANUEL Peter Cabrera Cepeda claimed mental illness in his not-guilty plea to the murder of his estranged wife who was fatally shot in her Dededo home last month.

Cepeda, 36, appeared for his arraignment in Superior Court yesterday before Magistrate Judge Alberto Tolentino, where his attorney, alternate public defender Jeff Warfield, waived a reading of the indictment and entered a plea of not guilty by reason of mental illness, disease or defect.

The judge ordered a psychological evaluation of Cepeda to be conducted within 10 days. A request for a jury of 12 was granted and Cepeda waived his

right to a speedy trial.

### Indictment

A Superior Court grand jury last week indicted Cepeda on charges of aggravated murder as a first-degree felony with special allegation of possession and use of a deadly weapon.

Cepeda, despite a protective order, is accused of shooting his wife, 35-year-old Emma Catapang Cepeda, in the head and thigh in her Astumbo home on Feb. 17.

When arrested and interviewed by police, Cepeda allegedly told officers he intended to kill himself after he killed his wife, but the gun malfunctioned.

Months before the death of his wife, Cepeda was arrested for allegedly threatening to kill his wife and their three chil-

dren. He was charged in court in October with assault and family violence.

The following month, Emma Cepeda obtained a protective order against her husband for fear he would carry out his threats. Cepeda was released in the prior case on a personal recognizance bond.

Currently, Cepeda is housed at the infirmary of the Department of Corrections' Adult Correctional Facility in Mangilao. DOC spokesperson Lt. Antone Aguon said he was transferred from the Hagåtña Detention Facility to the Mangilao compound at the request of the department's psychologist for closer medical evaluation. He is housed in a single cell at the medical unit.

Cepeda's next hearing is scheduled before Judge Arthur Barcinas on March 27.



Emmanuel Cepeda

THE BANKING AND INSURANCE BOARD MEETING  
DIRECTOR'S CONFERENCE ROOM MARCH 14, 2013, THURSDAY 2:00 PM

AGENDA

- I. Approval of Minutes for meeting held on June 21, 2012.
- II. Old Business
  1. The Secure and Fair Enforcement for Mortgage Licensing Act or Safe Act was approved as P.L. No. 30-151 on May 25, 2010.

The Legislature returned the Regulations to our office for further development. The SAFE Act was enacted under Title 18, Business Functions and not under Title 11 of the Banking Code. A banking activity that is set in the Banking code can be the subject of regulation by the Board. Since mortgage origination is a banking activity, the Commissioner submits the SAFE Act Regulations for the approval of the Board. Thereafter, these regulations shall be transmitted to the Guam Legislative Secretary.

The Nationwide Mortgage Licensing System & Registry (NMLS) launch, an examiner conducted training in Hawaii to utilize the NMLS system. The other examiners are currently being trained on the system. The launch date has yet to be determined.

2. Vincent Insurance Services Corporation. The main issue is whether or not the Commissioner has the authority to retroactively allow and approve the renewal of the certificates of authority. The company did file audited financial statements but beyond the license period. The filing was done as follows: Audited FS 2004 to 2007 filed on March 5, 2010; Audited FS 2008 to 2009 filed on December 16, 2011; Audited FS 2010 filed on January 12, 2012.

The decision of the Commissioner and the hearing officer states that Vincent Insurance cannot be issued an insurance license retroactively. Counsel for Vincent Insurance has filed an appeal before the Banking and Insurance Board. A hearing will be held as soon as a hearing officer for the Board can be arranged with the assistance of the Attorney General.
  3. In regards to the letter requiring the Government of Guam autonomous agencies to deposit funds (particularly TCDs) with eligible banks. A request for opinion was submitted to the Attorney General's Office.
  4. The Patient Protection Affordable Care Act (PPACA) became law on March 23, 2010. Guam is not included in the Temporary High Risk Pool. However, the Medicaid and Children Health Improvement were increased together with all Territories. The
-

Affordable Care Act (ACA) as held in accordance with the US Constitution based on the taxing power of the US federal government.

The National Association of Insurance Commissioners (NAIC) has created a working committee for all NAIC members in relation to the establishment or non-establishment of Exchanges for the states and territories. Guam has submitted the issues stated below.

Guam administers the Territorial Income Tax which mirrors the income tax provisions of the US Internal Revenue Code (IRC). The provisions of ACA on advance premium tax credit or APTC are set forth in the IRC Section 36B. The APTC is a subsidy for low household income qualified residents of Guam to be able to secure affordable health insurance. The subsidy starts at 100% to 400% Federal Poverty Level (FPL) for each household. For a household with four members the household income at 100% FPL is \$23,050 and at 400% FPL it is \$92,200. The estimated APTC amount for Guam is \$74 million every year. This mandate in the IRC is not funded by the federal government.

The Earned Income Tax Credit (EITC) provisions are also found in the income tax provisions of the IRC. Could Government of Guam in the administration of US Income Tax Code be held liable to pay for APTC? This is a legal question. The IRS stated that Guam is not liable to pay APTC if Guam does not establish the Exchange. However, Government of Guam may face a lawsuit similar to the EITC.

Several grants were applied for and awarded to Guam. In regards to the Exchange Grant Funds that have been awarded, in the event that Guam does not implement an exchange, all funds (that have been expended and not expended) by the Government of Guam must be reimbursed to the federal government. To date, of the \$1 million grant funds for the exchange only \$11,000 have been expended. This grant has been transferred to the Governor of Guam.

For insurers that issue health insurance plans, they are required to spend 80 cents for every dollar of premium received for payment of claims and wellness programs for the individual and small market. For the large market of 100 members the requirement for insurers is to pay 85 cents for every dollar of premium received for payment of claims and wellness programs. If the threshold of 80 cents and 85 cents is not met, the insurers must pay rebate. Health plans issued by Island Home Insurance Co are administered by StayWell. The health plans issued by Tokio Marine Pacific Insurance Ltd are administered by SelectCare have paid the rebates to policyholders (employers) on

August 1, 2012. The employers have 90 days from August 1, 2012 to pay the rebates to Subscribers. Subscribers are employees who pay a share of the premium to the insurer.

5. Pacific Amusement, Inc. has refused to submit their audited financial statements. The company has retained an attorney to challenge the requirement. Pacific Amusement Inc. is also stating that the \$1 million surety bond requirement for nonbank ATM applicants is discriminatory. The Commissioner submitted an Order requesting documents be submitted for review or request for a Hearing on May 2, 2012. Counsel for Pacific Amusement issued a letter on May 17, 2012, requesting a Hearing. A hearing was held on August 24, 2012. The case was heard by the Commissioner and Assistant Attorney General Monte May as the hearing officer. The Commissioner delegated the authority to decide to the hearing officer because the issues are purely legal questions.

The hearing officer agreed with Pacific Amusement Inc. that the requirement of financial statement of the board must comply with Administrative Adjudication Law. The proposed rule that required Pacific Amusement to submit audited financial statement in the interpretation of a comprehensive financial statement requires a public hearing and not just a meeting by the Board. It must be mentioned that Pacific Amusement, Inc. is contesting that the surety requirement for non-bank automated teller machines (ATM) is inorganic because the surety bond requirement is not similarly imposed on banks.

6. Request for Proposal for Financial (RFP) Examination of Insurance Companies licensed in Guam. The RFP include services for financial examination, rate review and market conduct. The RFP has been published on February 15, 2013. At least two financial examiner firms submitted responses. The Board needs to vote to approve or disapprove the proposals.

### III. New Business

1. Metropolitan Bank and Trust Co Guam Branch closed effective June 30, 2012. As of June 30, 2012, the Guam Branch has no more assets and liabilities in Guam.
2. The Regulatory Examiners had an online training for reviewing policy forms and rates in the Systems for Electronic Rate and Form Filing (SERFF). The training was held on August 21, 22, and 23, 2012. Since October, 2012, Guam has been receiving and reviewing insurance policy form and rate filings that are filed online.



4 Banking and Insurance Board Agenda 03/14/2013

3. Oceanic Bank Guam has been purchased by the First National Bank of Northern California. The purchase was approved by the FDIC. Effective September 24, 2012, Oceanic Bank Branch in Guam became First National Bank of Northern California.
4. The Guam Branch of Allied Bank has informed our office that it has merged with Philippine National Bank in February 2013. Allied Bank has been informed that certified copies of the merger document shall be filed with the Department and with the Commissioner.
5. Anthony Godwin is lobbying with the Guam Legislature to propose legislation for Uniform Electronic Transaction Act (UETA). There is a companion federal law known as Electronic Signatures in Global and National Commerce (ESIGN). ESIGN requires that consumer be informed and consumer must consent to the use of Electronic Signatures. More information is needed in terms of consumer protection, legal certainty of electronic signatures, burdens to financial institutions and establishments using electronic signatures.

**BANKING AND INSURANCE BOARD OF DIRECTORS  
MINUTES OF THE MEETING**

March 14, 2013 Thursday, 2:00 pm

Director's Conference Room, Department of Revenue and Taxation  
1240 Army Drive, Route 16, Barrigada, Guam 96913

**ATTENDANCE:**

**Present:**

Commissioner Art Ilagan  
Regulatory Administrator,  
John Carlos  
Edelfrida A. Ada  
Antonita S. Camacho

William West Cassidy  
David Silva  
Mark O. Fish  
Danilo Rapadas  
Cesar Garcia

**Absent:**

Rose Fejeran

The meeting was called to order at 2:15 pm. The presence of the Insurance and Banking Commissioner, Board of Directors who attended the meeting and the Regulatory Programs Administrator were acknowledged.

The meeting started with the approval of the minutes of the meeting held on June 21, 2012. The approval was moved by Antonita Camacho and seconded by Danilo Rapadas.

The following old businesses were discussed:

- **The SECURE and FAIR ENFORCEMENT for MORTGAGE LICENSING ACT (SAFE ACT)—**

Mark Fish voiced out his frustrations about the delay on the approval of the SAFE Act Regulation by the Legislature even after the Office of the Insurance Commissioner acted on the changes that the Legislature wanted to happen.

-the Act should have been in place two (2) years ago---it goes back and forth and back and forth and nothing is getting done.

-the penalty is \$10,000.00 per occurrence violence for making mortgage without license as mandated by federal law but not being implemented

-there might be liability involve with financial institutions that are forced to stop their mortgage loan activities because they cannot obtain licenses for their people.

-in the absence of the SAFE Act, can the Commissioner fall back in enforcing the HUD Regulation?

John Carlos cited that part of the delay is the changes that were asked by the Legislature. The Safe Act was revised accordingly and resubmitted again and still waiting for the Legislature's action. There was a scheduled meeting on December 6, 2012 but there was no quorum and therefore, this caused another delay.

Danilo Rapadas commented that this subject of implementing SAFE ACT maybe not be the concern of the banks but more of mortgage groups that have to be in compliance with the SAFE Act to carry out their business. Therefore, they should be the one to be pushing the SAFE Act to be implemented.

The discussion about SAFE Act ended up with the request from the Board of a 'redlined' changes required by the Legislature on the Regulations and take it from there till the next discussion and/or meeting of the Board. Mr. Carlos will email the documents to all Board members.

- **VINCENT INSURANCE--**

With the Vincent Insurance case, there was a ruling of the Insurance Commissioner and the Hearing Officer contracted by the Attorney General stating that Vincent Insurance cannot be granted a certificate retroactively for the years of not having the Certificate of Authority. The entity wants to have another hearing before the Banking and Insurance Board. After the hearing with the Banking and Insurance Board and it still does not yield a favorable result for Vincent, they are going to court to file an appeal.

- **DEPOSIT FUNDS (TCDs) WITH ELIGIBLE BANKS---**

This pertains to the GovGuam autonomous agencies. The letter requesting for the AG's opinion was sent to the Attorney General on August 4, 2010 and still waiting for the response. Danilo Rapadas requested to get the date when the request for opinion was sent to the AG and if need be, do a follow up every week till the AG attends to the matter.

The discussion revolved on the matter of hiring a Regulatory Counsel to attend to legal matters that are on hand so that the waiting time for the action to take or recommendation will be lessened and so that we are not dependent on the Attorney General's office time table to render an opinion. The question of funding the Counsel came up and the Commissioner disclosed that the Regulatory Division used to have a separate account funded from the examination fees of banks and insurance companies but was closed and consolidated into the General Funds.

Mark Fish suggested if we can invite Senator Michael San Nicolas (Oversight Chairman for Revenue and Taxation) so that the Board can express directly to him matters with regards to Banking and Insurance business of Guam.

The Insurance Commissioner agreed to invite Senator Michael San Nicolas on the next Banking and Insurance Board Meeting.

- **The PATIENT AFFORDABLE CARE ACT (PPACA)---**

Mr. Carlos talked the PPACA program by President Obama also known as 'Obama Care' that became law on March 23, 2010.

The National Association of Insurance Commissioner (NAIC) provides information on the establishment of Insurance Exchange for the states and territories.

The Affordable Care Act will provide a total of \$1 billion for territories to use granting Puerto Rico \$925 million and leaving the remaining \$75 million to be divided among the other four (4) territories with Guam having 32.58% or \$24,436,001 of the \$75 million.

The following factors are affecting Guam as to reaching a decision to establish and insurance exchange or to opt out of the program:

-Guam Administers the Territorial Income Tax which mirrors the income tax provisions of the US Internal Revenue Code (IRC). The Advance Premium Tax Credit or APTC is a subsidy for low household income qualified residents of Guam to be able to secure affordable health insurance. This provision of ACA is found in IRC Section 36B. The subsidy starts at 100% to 400% Federal Poverty Level (FPL) for each household. For a household with four (4) members, the income at 100% FPL is \$23,050 and \$92,200 at 400% FPL. The estimated APTC amount for Guam is \$74 million each year. This mandate in the IRC is not funded by the federal government.

-The Earned Income Tax Credit (EITC) provisions are also found in the income tax provisions of the IRC. Although the IRS stated that Guam is not liable to pay APTC if Guam does not establish an Exchange, Government of Guam may face a lawsuit similar to EITC.

Guam was awarded \$1 million to fund the Insurance Exchange. To date, \$11,000 has been expended out of the total funds. In the event that Guam does not establish an Exchange, the total amount of \$1millionawarded grant must be reimbursed by Government of Guam to the Federal Government (funds that have been expended and not expended).

To date, Guam has not made a decision. The deadline to opt into an Exchange is on October 1, 2013. If Guam does not elect to establish an Exchange, the Department of Health and Human Services (HHS) will not operate a Federally-facilitated Exchange but instead, Guam will receive an increase in the federal funds for Guam's Medicaid program.

- **PACIFIC AMUSEMENT, INC.—**

Pacific Amusement, Inc. is a non-bank institution. It is licensed to operate Automated Teller Machines (ATM). Pacific Amusement, Inc. has refused to submit audited financial statements and questions the requirement to post a \$1 million bond surety stating that it is discriminatory since the requirement is not similarly imposed on commercial banks and other banks. With Hearing Officer, Monte May of the AG's Office and the Insurance Commissioner, Mr. Artemio B. Ilagan, a hearing on the matter was held on August 24, 2012. The decision of the Hearing Officer was that the requirements being asked of the Pacific Amusement must not only be the result of an agreement among the Board Members for an audited financial statement pursuant to the Administrative Adjudication Act but requires a public hearing. The decision by the Hearing Officer will be appealed to the court by Pacific Amusement, Inc.

Danilo Rapadas commented that this is one of the reasons why is there a need of a Regulatory Counsel. Someone needs to be on top of the regulatory issues of the Department of Revenue and Taxation.

- **REQUEST FOR PROPOSAL (RFP) for FINANCIAL EXAMINATION OF INSURANCE COMPANIES LICENSED IN GUAM--**

This RFP includes services for financial examination, rate review and market conduct. The RFP has been published on February 15, 2013. At least two (2) financial examiner firms submitted responses: (1) Regulatory Examination Consultants was received on March 11, 2013 and (2) INS Regulatory Insurance Services, Inc. was also received on March 11, 2013. Both of the responses were opened in the presence of the Board Members. The responses are attached to this report. Dave Silva commented that the daily expenses per diem appears to be high. Danilo Rapadas suggested if daily per diem rate can be negotiated.

- **METROPOLITAN BANK & TRUST COMPANY of GUAM—**

The bank closed its Guam Branch effective June 30, 2012. There is no more assets and liabilities in Guam as of the closing date of the business. The Office of the Banking Commissioner directed Metropolitan Bank to post a Fifty Thousand (\$50,000.00) deposit by way of Time Certificate of Deposit. The deposit will be held by Treasurer of Guam for five (5) months from June 30, 2012 before it can be released. This is for consumer protection.

- **SYSTEM FOR ELECTRONIC RATE & FROM FILING (SERFF)—**

On August 21, 22 & 23, 2012, the Regulatory Examiners had on line training on reviewing and approving policy forms and rates via SERFF. In October 2012, Guam started receiving and reviewing policy forms and rates filing electronically.

- *Minutes of the meeting.....pg 5*
- **OCEANIC BANK Guam Branch** was purchased by FIRST NATIONAL BANK OF NORTHERN CALIFORNIA with the approval of FDIC. Effective September 24, 2012, Oceanic Bank Branch in Guam became First National Bank of Northern California.
- **ANTHONY GODWIN of Today's Realty** is lobbying with the Guam Legislature to propose legislation for Uniform Electronic Transaction Act (UETA). There is a companion federal law known as Electronic Signatures in Global and National Commerce (ESIGN). ESIGN requires that consumer be informed and consumer must consent to the use of electronic signatures. More information is needed in terms of consumer protection, legal certainty of electronic signatures, burdens to financial institutions and establishments prior to the adoption of the law using electronic signatures.

The meeting adjourned at 4:25pm. It was moved by Danilo Rapadas and seconded by David Silva.

The next Banking and Insurance Board meeting was set for May 9, 2013.



Dipattamenton Kontribusion yan Adu'ana

DEPARTMENT OF

# REVENUE AND TAXATION

GOVERNMENT OF GUAM

Gubetnamenton Guahan

EDDIE BAZA CALVO, Governor / Mega'lahi  
RAY TENORIO, Lt. Governor / Tiñente Gubetnadot

JOHN P. CAMACHO, Director  
Akto Direktot  
MARIE M. BENITO, Deputy Director  
Sigundo Direktot

## ATTENDANCE SHEET THE BANKING AND INSURANCE BOARD MEETING Public Hearing

DIRECTOR'S CONFERENCE ROOM

March 14, 2013, 2:00 PM

NAME	TIME IN	CONTACT NUMBER	SIGNATURE
Artemio B. Ilagan, Banking & Insurance Commissioner	2:00		
Edelfrida A. Ada			
Danilo Rapadas	2:00	655-5089	
William W. Cassidy	2:20	727-3214	
Mark O. Fish		488-3474	
Dave Silva	2:50	117. 2648	
Antonita S. Camacho	2:00	482-3722	
Rose Fejeran			
Cesar Garcia	2:00	482-0648	



Support for women victims

**Blat Welles / Variety**  
Monique Baza, the woman who was allegedly beaten last year in the Crown Bakery parking lot, addresses a rally in front of the Meskita restaurant in Hagåtña to demonstrate support for the women victimized in the Crown Bakery abduction and Nimtz Hill home invasion.

# 4 cops assaulted in Yigo riot, 7 arrested

By Gina Tabonarez-Reilly  
gina@mvguam.com  
Variety News Staff

ROUTINE check on a reported drunk driver turned into a riot in Yoña on Saturday night after seven men and women allegedly started assaulting police officers, hurting at least four officers of the Hagåtña Police Precinct.

According to Guam Police Department spokesperson Paul Tapao, the officers arrived at a home in Yoña to conduct a DUI investigation

after receiving a call reporting a drunk driver on Route 4 in Chalan Pago at around 8 p.m.

Cyenllas Thornton, 30, told the responding police officer that he was the operator of the subject vehicle.

GPD said the officer detected alcohol in Thornton's breath during a police interview. Upon further questioning, Thornton confirmed he had consumed alcohol at Toy's Tavern in Tamuning.

According to the report, Thornton resisted when the officer was trying to put the handcuffs on him. He "became combative" and began attacking the arresting officer. Thornton grabbed the police officer by the neck and began choking him.

The two both landed on top of a car when the police tried to subdue a combative Thornton.

The second police officer at the scene immediately provided assistance by trying to pull the

officer from Thornton's grip. During this time, officers at the scene were also being attacked by other individuals at the Yoña home.

When the police officers called for assistance, their responding colleagues from the Hagåtña Precinct were greeted with attacks from other individuals from the same Yoña residence.

The officers from the Hagåtña Precinct were able to control the situation and ended up arresting seven individuals.

Thornton was arrested and was charged with assault on a police officer, resisting arrest, disorderly conduct, and harassment.

Also arrested were Eric Gordon Bay, 39; Jonathan Robert Brown, 32; Sandra-cna Cepeda, 32; Ellainne Bay, 33; Monica Renee

Thornton, 35, and Warinitip Loto, 25. They were all charged with assault on a police officer, disorderly conduct, resisting arrest, and obstruction of government operations. They were all booked and confined

The four injured Hagåtña Precinct police officers were treated by Guam Fire Department medical personnel on the scene.

Further investigation revealed that Thornton was not the real operator of the vehicle and was speaking for a female friend, and was a passenger who reportedly harassed a motorist along Route 1 in Hagåtña on the same night.

*According to the report, Thornton resisted when the officer was trying to put the handcuffs on him. He "became combative" and began attacking the arresting officer. Thornton grabbed the police officer by the neck and began choking him.*

## 'Ties with prosecutor no ground for recusal'

By Gina Tabonarez-Reilly  
gina@mvguam.com  
Variety News Staff

SUPERIOR Court Judge James Canto continues to reiterate that his personal relationship with a prosecutor from the Attorney General's Office does not warrant his disqualification from presiding over three separate cases involving one defendant.

In a response to the objection from defendant Norman Camacho James, Canto repeated his earlier argument that his relationship with Assistant Attorney General Richelle Yu has no influence on his objectivity and competency as a presiding judge.

Lawyer Curtis Van de Veld represents James, who is facing three separate criminal cases, an attempt to cause bodily injury and two DUI

cases. Another defendant, Kyle Evans Blas, earlier filed a similar objection.

Canto confirmed his relationship with Yu but said there is nothing improper about their relationship.

Canto said "the objection is based entirely upon suspicion, conclusions and speculations," which should not be the basis for judicial disqualification.

The defendants argued that Canto failed to comply with the law requiring judges to disclose facts that may require disqualification from a proceeding.

Canto said he is not required to announce his personal relationship at every hearing on every criminal case to which he is assigned.

He said Yu does not appear before his court as a prosecuting attorney of record on any criminal case and he does not

hear or handle any criminal case that she actively works on as a prosecutor.

"I took an oath to be fair, impartial, and free from bias or prejudice, and I take the duty and the integrity of my office most seriously," Canto stated in his filing.

Citing a number of case laws, Canto said a majority of courts hold that judges need not be disqualified from hearing criminal cases just because their husband, wife, son or daughter is a prosecutor who does not appear before that judge.

"Because my personal relationship is not a valid reason for my disqualification, it would be pointless and unnecessary to mention it every time I hear a criminal case since it does not rise to the level of a disqualifying fact under [the law] to begin with," Canto added.



**Department of Revenue and Taxation**  
Government of Guam  
P.O. Box 23607 GME, Guam 96921  
Tel: 635-1817/1819 Fax No.: 633-2643



### PUBLIC NOTICE

The Banking and Insurance Commissioner will hold a public hearing on Thursday, May 9, 2013 at 1:30 p.m. at the Department of Revenue and Taxation Building, Director's Conference Room, at 1240 Army Drive, Barrigada, Guam. This public hearing shall be on the request for admission of the following insurance companies to transact insurance business in Guam:

- Philadelphia Indemnity Insurance Company
- Praetorian Insurance Company
- Safety National Casualty Corporation

Any interested person(s) are invited to provide comment on any of the above insurance companies.

Immediately following the hearing on the above listed companies, the Banking and Insurance Board will hold a meeting on Thursday, May 9, 2013, 2:00 p.m. at the Department of Revenue and Taxation Building, Director's Conference Room, at 1240 Army Drive, Barrigada, Guam.

**ARTEMIO B. ILAGAN**  
Banking and Insurance Commissioner

**DIPPARTAMENTON I KACHAO GUÑAHAN CHAMORRO**  
DEPARTMENT OF CHAMORRO AFFAIRS  
Government of Guam

  
Edward B. Caban  
Governor of Guam

  
Joseph A. Yano - Carreras  
President, DCA


  
Raymond S. Sison  
Governor of Guam

**PUBLIC SERVICE ANNOUNCEMENT**

The Hagåtña Restoration and Redevelopment Authority Board of Commissioners will hold a Regular Board Meeting on May 7, 2013 at 11:00 a.m. Location: Department of Chamorro Affairs Conference Room, 194 Hernan Cortez Avenue 1st Floor Terlaje Professional Building Hagåtña, Guam.

Individuals requiring special accommodations may also contact the President's Office at 475-4278/9.

This advertisement was paid by the Department of Chamorro Affairs, Non-Appropriated Funds.



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# McCreadie bill stiffens penalties against violent habitual offenders

By Louella Loelink  
louella@mvguam.com  
Variety News Staff

SEN. Brant McCreadie has introduced Bill 107-32, a measure introducing a habitual offender statute into current law which sets a mandatory life sentence for those who have been previously convicted of any violent or aggravated felony, not committed on the same occasion and separated by intervening arrests.

If the bill becomes law, the habitual offender statute recommends that sentencing not be suspended, nor shall the offender be eligible for probation or parole.

Also known as a "two strikes and you're out" bill, the measure has been gaining bipartisan support at the Legislature due to the sharp increase in violent and serious crimes, which are committed again and again by persons previously convicted of other serious crimes.

These habitual offenders, according to the bill, have shown that rehabilitation for these criminals is not an option. As such, it is in the people's best interest for habitual offenders to be incarcerated for a significant period of time.

McCreadie said it is "absolutely time" to fight crime with punishment. He also believes this is not the time for island leaders to start pointing fingers at one another.



Sen. Brant McCreadie has introduced Bill 107-32, a measure offering a habitual offender statute into current law. Variety file photo.

A release from the senator's office stressed that "this is the time for all branches of government to work together and work closer than ever to ensure the safety of our community and our most vulnerable members of society - women, children, senior citizens, and disabled individuals."

For the penalties to apply, judgment for the aggravated or violent felony that comprises the prior conviction should

have been entered within 15 years of the conviction for the current offense.

However, time spent in custody or on probation for an offense or while the person is an absconder shall not be excluded from the calculation of the 15 years.

Co-sponsoring the bill are Sens. Michael San Nicolas, Dennis Rodriguez Jr., Tina Muña-Barnes, Anthony Ada, and Michael Limtiaco.

# Calvo vetoes health insurance legislation

Scolds legislators

By Frank Whitman  
frank@mvguam.com  
Variety News Staff

GOV. Eddie Calvo minced no words in his veto message for Bill 81-32. The bill was introduced by Sen. Ben Pangelinan and pertained to the procurement of health insurance for government of Guam employees and retirees for fiscal year 2014.

"Bill 81 is fiscally irresponsible," Calvo wrote in his veto message. "It is mathematically and actuarially impossible. It abandons a proven process for the solicitation and negotiation of the best health insurance plan for the government. It introduces an unacceptable level of uncertainty in the procurement of health insurance for the government of Guam. This administration will not enact legislation that increases the uncertainty and the cost of necessities on our man'amko' and on our hard-working employees."

In a statement, Pangelinan had said that under the bill, bidders would offer standard benefits while price, service and the network of providers would vary. The bill would have set a cap on premiums lower than current premiums, with only qualified bidders licensed to do business on Guam eligible to submit a bid. In addition, under the bill, any eligible bidder whose bid is lower than the premium cap of \$68 million would be automatically

accepted as a health insurance provider. The bill would have allowed employees and retirees to receive money for use in health savings accounts and health reimbursement accounts to help alleviate the deductibles in the current plan, Pangelinan said.

"How many times must the government tamper with the procurement process before expensive lessons are learned from the politics surrounding the annual health insurance provisions?" Calvo wrote in his three-page letter.



Eddie Calvo

**Disputed**  
Calvo disputed the claims Pangelinan made about the benefits of the bill. "All of the data and professional hypotheses by independent third parties (including those commissioned by the author himself) tell this government that meddlesome and political legislation like Bill No. 81 will end up costing government of Guam employees and the taxpayers of Guam even more money."

The current health insurance process already allows for multiple insurance carriers if the costs are reduced. "There is no common-sense reason for passage of this bill," the governor wrote.

The bill passed 9-4 on April 22. Sen. Chris Duenas and Sen. Tommy Morrison were absent. Sens. Tony Ada, Mike Limtiaco, Brant McCreadie and Dennis Rodriguez Jr. voted against the bill. It was vetoed on May 2.



## Department of Revenue and Taxation

Government of Guam

P.O. Box 23607 GUMF, Guam 96921

Tel: 635-1817/1819 Fax No.: 633-2643



John P. Comanche  
Physician  
John M. Santos  
Deputy Director

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Philadelphia Indemnity Insurance Company  
Praetorian Insurance Company  
Safety National Casualty Corporation

Any interested person(s) are invited to provide comment on any of the above insurance companies.

Immediately following the hearing on the above listed companies, the Banking and Insurance Board will hold a meeting on Thursday, May 9, 2013, 2:00 p.m. at the Department of Revenue and Taxation Building, Director's Conference Room, at 1240 Army Drive, Barrigada, Guam.

**ARTEMIO B. ILAGAN**  
Banking and Insurance Commissioner

### PUBLIC NOTICE

The Banking and Insurance Commissioner will hold a public hearing on Thursday, May 9, 2013, 2:00 pm at the Department of Revenue and Taxation Building, Director's Conference Room, at 1240 Army Drive, Barrigada, Guam.

Philadelphia Indemnity Insurance Company has filed an application to be an approved insurer in Guam pursuant to the provisions of 22 GCA Section 15101. Interested parties may present written or verbal comment before and on the date of the public hearing for or against the applicant.

**ARTEMIO B. ILAGAN**  
Banking and Insurance Commissioner

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**ARTEMIO B. ILAGAN**  
Banking and Insurance Commissioner

Marianas Variety-Guam Edition is circulated by home and office delivery, consignments, and vending machines throughout Guam, as well delivery to the Federated States of Micronesia, the Marshall Islands, South Pacific, Hawaii, Japan and the continental U.S. Daily coverage can also be read from our website [www.mvguam.com](http://www.mvguam.com).

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THE BANKING AND INSURANCE BOARD MEETING  
DIRECTOR'S CONFERENCE ROOM MAY 09, 2013, THURSDAY 2:00 PM

AGENDA

- I. Approval of Minutes for meeting held on March 14, 2013.
- II. Old Business
  1. The Secure and Fair Enforcement for Mortgage Licensing Act or Safe Act was approved as P.L. No. 30-151 on May 25, 2010.

The Legislature returned the Regulations to our office for further development. The SAFE Act was enacted under Title 18, Business Functions and not under Title 11 of the Banking Code. A banking activity that is set in the Banking code can be the subject of regulation by the Board. Since mortgage origination is a banking activity, the Commissioner submits the SAFE Act Regulations for the approval of the Board. Thereafter, these regulations shall be transmitted to the Guam Legislative Secretary.

The Nationwide Mortgage Licensing System & Registry (NMLS) launch, an examiner conducted training in Hawaii to utilize the NMLS system. The other examiners are currently being trained on the system. The launch date has yet to be determined.

2. Vincent Insurance Services Corporation. The main issue is whether or not the Commissioner has the authority to retroactively allow and approve the renewal of the certificates of authority. The company did file audited financial statements but beyond the license period. The filing was done as follows: Audited FS 2004 to 2007 filed on March 5, 2010; Audited FS 2008 to 2009 filed on December 16, 2011; Audited FS 2010 filed on January 12, 2012.  
The decision of the Commissioner and the hearing officer states that Vincent Insurance cannot be issued an insurance license retroactively. Counsel for Vincent Insurance has filed an appeal before the Banking and Insurance Board. A hearing will be held as soon as a hearing officer for the Board can be arranged with the assistance of the Attorney General. The Attorney General has not yet selected an outside counsel to represent the Board.
3. In regards to the letter requiring the Government of Guam autonomous agencies to deposit funds (particularly TCDs) with eligible banks. A request for opinion was submitted to the Attorney General's Office. The original request was made to Attorney General John M. Weisenberger on August 4, 2010. On April 2, 2013, Commissioner Ilagan sent a follow up letter to Attorney General Leonardo M. Rapadas. Please see attachments.

4. The Patient Protection Affordable Care Act (PPACA) became law on March 23, 2010. Guam is not included in the Temporary High Risk Pool. However, the Medicaid and Children Health Improvement were increased together with all Territories. The Affordable Care Act (ACA) as held in accordance with the US Constitution based on the taxing power of the US federal government.

The National Association of Insurance Commissioners (NAIC) has created a working committee for all NAIC members in relation to the establishment or non-establishment of Exchanges for the states and territories. Guam has submitted the issues stated below.

Guam administers the Territorial Income Tax which mirrors the income tax provisions of the US Internal Revenue Code (IRC). The provisions of ACA on advance premium tax credit or APTC are set forth in the IRC Section 36B. The APTC is a subsidy for low household income qualified residents of Guam to be able to secure affordable health insurance. The subsidy starts at 100% to 400% Federal Poverty Level (FPL) for each household. For a household with four members the household income at 100% FPL is \$23,050 and at 400% FPL it is \$92,200. The estimated APTC amount for Guam is \$74 million every year. This mandate in the IRC is not funded by the federal government.

The Earned Income Tax Credit (EITC) provisions are also found in the income tax provisions of the IRC. Could Government of Guam in the administration of US Income Tax Code be held liable to pay for APTC? This is a legal question. The IRS stated that Guam is not liable to pay APTC if Guam does not establish the Exchange. However, Government of Guam may face a lawsuit similar to the EITC.

The Governor of Guam has until October 1, 2013 within which Guam shall opt in or out of the State Based Exchanges now called State Based Markets (SBM). The Federally Facilitated Markets (FFM), Federal and State Partnership Markets options are available only to the 50 states.

5. Pacific Amusement, Inc. has refused to submit their audited financial statements. The company has retained an attorney to challenge the requirement. Pacific Amusement Inc. is also stating that the \$1 million surety bond requirement for nonbank ATM applicants is discriminatory. A hearing was held on August 24, 2012. The case was heard by the Commissioner and Assistant Attorney General Monte May as the hearing officer.

The Commissioner delegated the authority to decide to the hearing officer because the issues are purely legal questions.

The hearing officer agreed with Pacific Amusement Inc. that the requirement of financial statement of the board must comply with Administrative Adjudication Law. It must be mentioned that Pacific Amusement, Inc. is contesting that the surety requirement for non-bank automated teller machines (ATM) is inorganic because the surety bond requirement is not similarly imposed on banks. Currently, no court case has been served to the Commissioner.

6. Request for Proposal for Financial (RFP) Examination of Insurance Companies licensed in Guam. The RFP include services for financial examination, rate review and market conduct. The RFP has been published on February 15, 2013. At least two financial examiner firms submitted responses. The companies are: INS Regulatory Insurance Services, Inc. and Regulatory Examination Consultants, LTD. The rates submitted by the two financial examiner firms are attached to the minutes of the of the Board meeting held on March 14, 2013. The maximum per diem rate Outside the Continental United States (OCONUS) for Guam is \$255.00. The Board needs to approve the two proposals. Without the approval of the board, the Commissioner cannot assign the financial examiners to start the examination of the domestic insurance companies in Guam.

### III. New Business

1. Oceanic Bank Guam has been purchased by the First National Bank of Northern California. The purchased was approved by the FDIC. Effective September 24, 2012, Oceanic Bank Branch in Guam became First National Bank of Northern California. The Guam branch of First National Bank of Northern California will be closed effective June 30, 2013. Please see the communication from First National Bank of Northern California.
2. The Guam Branch of Allied Banking Corporation has informed our office that it has merged with Philippine National Bank in February 2013. The surviving bank is Philippine National Bank. The Philippine Banking Authorities have approved the merger. The approval from Bangko Central Ng Pilipinas (Central Bank of the Philippines), Philippine Deposit Insurance Corporation, certificate of filing with the Securities and Exchange Commission and Secretary's Certificate of Philippine National Bank are attached.

4 Banking and Insurance Board Agenda 05/09/2013

Philippine National Bank has filed the company's articles of incorporation and by-laws with the General Licensing and Registration Branch pursuant to 11 GCA §106722.

Allied Banking Corporation has deposit with the Commissioner in the form of a Time Certificate of Deposit with the First National Bank of California in the amount of \$525,000 pursuant to 11 GCA §106204. This deposit shall be deposited with a Guam commercial bank insured with the FDIC on May 16, 2013.

Philippine National Bank is requesting for the approval of the Board of the merger between Allied Banking Corporation and Philippine National Bank and for the surviving bank, the Philippine National Bank to be given the approval to submit an application for a foreign banking license pursuant to 11 GCA §72102 of this code.

## BANKING AND INSURANCE

### BOARD OF DIRECTORS MINUTES

May 9, 2013, Thursday, 2:00pm

Director's Conference Room, Department of Revenue and Taxation  
1240 Army Drive (Route 16), Barrigada, Guam 96913

Attendance: \*

Artemio B. Ilagan, Chairman, and Banking & Insurance Commissioner

Members:

Edelfrida A. Ada	Antonita S. Camacho
William West Cassidy	Rose Fejeran
Cesar Garcia	Mark O. Fish

Also Present:

John Q. Carlos, Regulatory Programs Administrator  
Camelita Gogue, VP & General Manager, Marianas Finance Corporation  
Angel S. Bautista, Senior Manager, Allied Bank Guam Branch  
John Paul Manuel, Analyst, Office of Senator San Nicholas  
Julian Jankln, Analyst, Office of Senator San Nicholas

#### Call to Order:

The Commissioner stated that the publication requirements for the Board Meeting were met. The Board Members in attendance were acknowledged. Mr. Danilo Rapadas and Mr. David Silva were absent. The Commissioner called the Banking and Insurance Board Meeting to order at 2:45pm

#### Approval of minutes:

The minutes of the prior board meeting of March 14, 2013, was presented and opened for review and discussion. Mr. Fish moved to approve the minutes, seconded by Ms. Ada. The minutes were unanimously approved.

The Commissioner opened the meeting to discuss the following:

#### Old Business:

1. The Secure and Fair Enforcement for Mortgage Licensing Act or Safe Act was approved as P.L. No. 30-151 on May 25, 2010.

The SAFE Act Regulations had been circulated via email to Board Members and other financial institutions. The regulations were submitted to the Legislature and was subsequently disapproved and returned for revision.

A motion to postpone (until the next Board Meeting) the voting on the approval of the SAFE Act Regulations for submittal to the Guam Legislature was made by Mr. Fish and seconded by Mr. Cassidy. Mr. Fish cited several concerns such as the fee structure, legal review by the Attorney General's Office, bond requirement, and ability to purchase bond due to potential losses from penalties. The Board agreed to postpone voting on the SAFE Act Regulations, until all Board Members have the opportunity to further review the regulations. In the interim, an Ad-Hoc Committee will be established to begin the review and revision process of the regulations.

2. Vincent Insurance Services Corporation. The Commissioner stated that he is still waiting on the Attorney General's Office for a hearing officer, since Vincent Insurance is requesting an appeal through the Board. No hearing date has been set as of today.
3. In regards to the letter requiring the Government of Guam autonomous agencies to deposit funds (particularly TCDs) with eligible banks.

The Commissioner stated that a request for opinion was made with the Attorney General's Office on August 4, 2010. But the Attorney General had not responded. A follow-up letter was made on April 2, 2013, and a response to that letter stated that Attorney Taitano-Lujan will be assigned as hearing officer. No hearing date has been set as of today.

4. The Patient Protection Affordable Care Act (PPACA) became law on March 23, 2010. Guam is not included in the Temporary High Risk Pool. However, the Medicaid and Children Health Improvement were increased together with all Territories.

The Commissioner asked if Mr. Carlos can elaborate on PPACA.

Mr. Carlos briefed the board regarding the cost of implementing the State Based Exchange, which is now called State Based Market for Guam. The Commissioner added that Guam's market situation is quite different compared to the mainland. The Commissioner along with the other territories are requesting an extension from the HHS Secretary to delay the implementation (until the funding issues with the territories are addressed), which is scheduled for January 1, 2014.

5. Pacific Amusement, Inc., has refused to submit their audited financial statements. The company has retained an attorney to challenge the requirement. Pacific Amusement Inc., is also stating that the \$1 million surety bond requirement for nonbank ATM applicants is discriminatory.

The Commissioner stated that he is waiting on court action in order to proceed with addressing this issue. The Commissioner stated that certain language in the law should be revised to better define what is required, such as, to change from "comprehensive financial statements" to "audited financial statements." Mr. Fish added that the law should be amended to include the terminology.

The other item that the company is challenging is the surety bond requirement. The company feels that since banks are not required to post the bond, their company should not be required to comply with this requirement.

6. Request for Proposal (RFP) for Financial Examination of Insurance Companies licensed in Guam.

Two financial examiner firms submitted responses to the RFP. The companies are INS Regulatory Insurance Services, Inc. and Regulatory Examination Consultants, Ltd.

A new fee schedule was negotiated with the firms and the Board proposed to use both firms on an alternating basis or availability. Mr. Fish motioned to approve, seconded by Mr. Cassidy. The Board unanimously approved.

#### **New Business:**

1. Oceanic Bank Guam was purchased by the First National Bank of Northern California. Effective September 24, 2012, Oceanic Bank Branch in Guam became First National Bank of Northern California.

The Board was informed that the Guam Branch of First national Bank of Northern California will be closed effective June 30, 2013.

2. The Guam Branch of Allied Banking Corporation has informed our office that it has merged with the Philippine National Bank in February 2013. The surviving bank is Philippine National Bank. The Philippine banking authorities have approved the merger.

Philippine National Bank is requesting for the approval of the Board of the merger between Allied Banking Corporation and the Philippine National Bank and the surviving bank, the Philippine National Bank to be give approval to submit an application for a foreign banking license, pursuant to 11 GCA section 72102.



Mr. Angel S. Bautista, Senior Manager of Allied Bank Guam Branch, identified himself and presented the financial statements of both banks to the Board.

Mr. Fish asked if any financial due diligence was conducted. The Commissioner stated that he did not believe this was done. Mr. Fish moved to postpone the approval until the Board has had time to review the financial statements of both banks. Seconded by Ms. Ada and approved by the Board.

Mr. Bautista also presented to the Board the newspaper advertisement of the merger, which includes an amendment. He also briefed the board of the surviving bank's intention, which is to continue the business activities previously conducted by Allied Bank. The business activities are limited to commercial lending and foreign exchange only.

3. The Commissioner opted to bring this issue to the Board at this time:

Please note that Senator San Nicholas was not able to attend, due to illness. Mr. John Paul Manuel and Mr. Julian Jankin, analysts with the Office of Senator San Nicholas attended the Board Meeting.

The Commissioner continued by stating that he had invited Senator San Nicolás (Committee on Aviation, Ground Transportation, Regulatory Concerns, and Future Generations) to today's Board Meeting in order to discuss a few issues. One is to request the special funds that were taken away and given to the General Fund during the period when the OPA stated that there were too many special funds.

The Commissioner stated that one of those special funds was for Insurance and Banking. He emphasized that those funds should stay with Insurance and Banking Branch or the Department in order to operate more efficiently. He further clarified that by efficiently he meant that the branch would have the money to hire more personnel, and purchase more, and better equipment.

In general, the Commissioner is requesting from Senator San Nicholas to assist in a legislation to create and fund a special account for the Insurance, Securities, Banking and Real Estate Branch of the Department of Revenue & Taxation in order to provide faster and better service to the customers.

4. The next Board Meeting has been tentatively scheduled for July 18, 2013, at 2PM at the Director's Conference Room.

The motion to adjourn was made by Ms. Ada, and seconded by Ms. Camacho. The meeting was adjourned at 3:35pm.



Dipårtamenton Kontribusion yan Adu'aña

DEPARTMENT OF

**REVENUE AND TAXATION**

GOVERNMENT OF GUAM

Gubetnamenton Guåhan

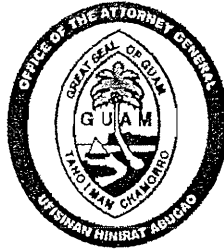
EDDIE BAZA CALVO, Governor / Maga'láhi  
RAY TENORIO, Lt. Governor / Tiñente Gubetnadot

JOHN P. CAMACHO, Director  
Direktot  
MARIE M. BENITO, Deputy Director  
Segundo Direktot

ATTENDANCE SHEET  
PUBLIC HEARING for ADMISSION of  
PHILADELPHIA INDEMNITY INSURANCE COMPANY,  
PRAETORIAN INSURANCE COMPANY,  
SAFETY NATIONAL CASUALTY CORPORATION  
&  
THE BANKING AND INSURANCE BOARD MEETING  
DIRECTOR'S CONFERENCE ROOM 1:30 PM, THURSDAY, MAY 9, 2013

NAME	TIME	CONTACT NUMBER	SIGNATURE
Artemio B. Ilagan, Banking & Insurance Commissioner			<i>Artemio B. Ilagan</i>
Edelfrida A. Ada		727-7380	<i>Edelfrida A. Ada</i>
Daniño Rapadas			
William W. Cassidy	2:00 PM	727-3214	<i>William W. Cassidy</i>
Mark O. Fish	2:00 pm	488-3474	<i>Mark O. Fish</i>
Dave Silva			
Antonita S. Camacho	2:00	488-3722	<i>NETTE CAMACHO</i>
Rose Fejeran	2:00	475-1204	<i>Rose Fejeran</i>
Cesar Garcia	2:00	488-0646	<i>Cesar Garcia</i>
TUNG SUF	1:30 pm	687-4570	<i>TUNG SUF</i>
Carmelita Gogole	2:00	646-5011	<i>Carmelita Gogole</i>
Angel S. Bautista	2:00	788-0589	<i>Angel S. Bautista</i>
JOLLY PAUL MARCEL	2:00	789-3105	<i>JOLLY PAUL MARCEL</i>
Julian J. ...	2:20	488-2510	<i>Julian J. ...</i>

Leonardo M. Rapadas  
*Attorney General*



Phillip J. Tydingco  
*Chief Deputy Attorney General*

## OFFICE OF THE ATTORNEY GENERAL

---

July 9, 2013

### AGENCY LETTER

TO: Administrator, Regulatory Division  
FROM: Assistant Attorney General  
RE: Review of Proposed SAFE Regulations

You have requested me, as agency counsel, to review and provide comment to the proposed SAFE Regulations being presented to the Insurance and Banking Board and general public on July 11, 2013 for comment.

Based on my review, consistent with the requirements of 5 GCA § 9303(a), the rules submitted are approved as to form.

Please let me know if you have any questions or concerns.

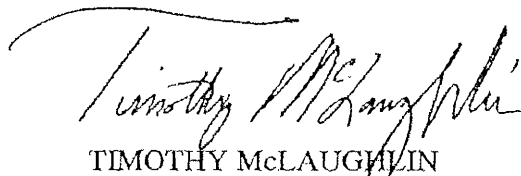
  
TIMOTHY McLAUGHLIN  
Assistant Attorney General



Photo shows the blast from the nuclear weapon test, code-named "Bravo," on Bikini Atoll, which was part of the U.S. Military's Operation Castle. U.S. Department of Energy photo

# Nimitz home invasion case delayed for cause

By Gina Tabonera-Reilly  
gns@mvguam.com  
Variety News Staff

SUPERIOR Court Judge Maria T. Cenzone has granted the government's motion to delay the jury selection and trial of the case against the three suspects in the Nimitz Hill home invasion due to the unavailability of a key witness - the victim who is off island for medical treatment.

Raymond Torres Tedtaotao, 44, Anthony Paul Mendiola, 38, and their minor accomplice was scheduled to appear in court yesterday. However, Assistant Attorney General Brian D. Gallagher requested a continuance to allow the victim to receive off-island treatment for injuries she sustained during the April 20 home invasion.

The victim earlier had brain surgery as a result of the head trauma she sustained after the suspects reportedly attacked her.

According to Gallagher, the victim is currently undergoing therapy for approximately six and a half hours on a daily basis. The prosecution said it needs more time to obtain more information on the victim's medical condition.

Judge Cenzone found good cause to continue the trial and exclude the period of delay from the calculation of the 45-day limitation period.

The 45-day limitation period pertains to the speedy trial right asserted by the defendants.

**DNA**  
The court also allowed the continuance to give additional time for the prosecution to conduct DNA testing on defendant Tedtaotao as part of

the requested discovery of the government attorney.

The earlier request for a buccal swab of Tedtaotao was delayed due to the absence of his attorney. With Attorney Sam Tekker appointed as Tedtaotao's lawyer, the collection of specimen and DNA testing can proceed.

The government has requested the court to delay the trial for six months, but Judge Cenzone said the government needs to provide justification for the request to ensure the defendants' speedy trial rights will not be violated.

Judge Cenzone ordered the government attorney to provide the justification for the six-month delay on the next hearing which is scheduled for July 1 at 2 p.m.

Tedtaotao, Mendiola and Cruz are facing charges of attempted murder, guilt by complicity to commit attempted murder, first-degree robbery, aggravated assault, and burglary as a second-degree felony.

The magistrate complaint on the case stated the three defendants drove up to the Piti residence on April 20, broke into the home, and knocked the woman onto the ground. Tedtaotao allegedly hit the woman in the face with a gun and duct-taped her mouth, arms and legs. The minor allegedly took a duffel bag and stuffed it with cloth and a camera while Mendiola allegedly took two laptops. Tedtaotao has an active theft case in relation to the Crown Bakery abduction and assault. He was summoned on April 25 to conduct DNA testing on his probation prior to his latest arrest.

# Resolution 127 passage lauded

By Louella Loaino  
lloaino@mvguam.com  
Variety News Staff

DURING its last session, the Legislature passed Resolution 127 which requests that Guam be included in the Radiation Compensation Act (RECA) of 1990.

Sen. Ben Pangelinan, who introduced the resolution, thanked his colleagues for unanimously passing the resolution, which also seeks to improve and increase compensation for those affected by ionizing radiation, including those from Guam.

During the public hearing for Resolution 127, there was overwhelming support from the community, including cancer survivors.

Robert Celestial, a long-time advocate and president of the Pacific Association for Radiation Survivors (PARS),

presented a slideshow on the history of Guam's journey for the inclusion of Guam in the compensation act.

Anjelica Kulani Okada, a graduate student at the University of Guam, also presented a slideshow that outlined the legislation introduced in the U.S. Congress and House of Representatives to support Guam's inclusion.

According to Pangelinan, Resolution 127 was the fifth resolution passed by the Guam Legislature since 2005 for Guam's inclusion to RECA.

"We once again are sending a message to the U.S. Congress and the U.S. House of Representatives by way of Resolution No. 127, that there is documented evidence to prove that Guam was affected by ionizing radiation between the years of 1946 to 1962 and

should be added to the category of 'down winders' and that individuals identified be justly compensated. I am hopeful that our friends, Sen. (Tom) Udall (D-NM) with his introduction of S.773, and Congressman Ben Ray Lujan with his introduction of H.R. 1645, and with the support from our Congresswoman (Madeleine) Bordallo, this issue will finally be put to rest. We will not stop until Guam is finally include into RECA," Pangelinan said.

The United States' largest fusion hydrogen bomb, code-named "Bravo," was 1,000 times more powerful than the Hiroshima atomic bomb, and deposited a liberal sprinkling of radioactivity over a wide swath of the Central Pacific and the inhabited atolls in the Marshall's archipelago in March 1954 during Operation Castle.

**OFFICE OF THE VETERANS AFFAIRS**  
Guam Veterans Cemetery

**INVITATION TO BID**

The Honorable Eddie B. Calvo, through the Office of Veterans Affairs Administrator, John S. Unpingco, announces the solicitation of sealed bids for:

**Construction Services for the Operations and Maintenance to the Guam Veterans Cemetery**  
Project No. GU-11-04

Bid Security must accompany bid-15% of total bid amount, and may be Bid Bond, Certified or Cashier's Check made payable to:  
Treasurer of Guam

Non refundable Fee: \$25.00 (Twenty-Five Dollars) required as Payment for bid Documents.

Availability of Documents - Office of Veteran Affairs (OVA), 2nd floor, 172 S. Marine Corps Drive, Asan, Guam, between the hours of 8 a.m. to 4 p.m., as of June 27, 2013. Bidders should register at that time.

Pre-Bid Conference - July 1, 2013, at 10 a.m.; at the office of Veterans Affairs; 172 S. Marine Corps Drive, Asan, Guam 96915. Written questions will be received until July 3, 2013.

Bid Opening - July 25, 2013 at 2 p.m. One original and three (3) bid copies must be submitted to the OVA, 2nd floor, prior to July 19, 2013 at 1:45 p.m.

The OVA reserves the right to reject any or all proposals and to waive any imperfection in the proposals, which in its sole and absolute judgment will serve the Government of Guam.

**JOHN S. UNPINGCO**  
Administrator  
This Ad Paid for by Government Funds

**Department of Revenue and Taxation**  
Government of Guam  
P.O. Box 23607 GME, Guam 96921  
Tel: 673-1817/1819 Fax No: 633-7643

**John P. Camacho**  
Director

**Marie M. Benito**  
Deputy Director

**PUBLIC NOTICE**

The Banking and Insurance Board will hold a public hearing on Thursday, July 11, 2012, 2:00 p.m. at the Department of Revenue and Taxation Building, Director's Conference Room, at 1240 Army Drive, Baniqada, Guam.

The public hearing will discuss the proposed regulations to the Guam Secure and Fair Enforcement of Mortgage Licensing Act of 2010 (SAFE Act) pursuant to 18 GCA Section 36301 et seq. Chapter 36, Mortgages.

Copies of the proposed regulations for the SAFE Act are available for inspection at the Department of Revenue and Taxation, Insurance Securities Banking and Real Estate Branch until the hearing date. Any interested person may submit testimony or comment on the proposed SAFE Act regulations.

Following this public hearing, the Banking and Insurance Board will discuss the adoption of the SAFE Act regulations and other business.

**ARTEMIO B. ILAGAN**  
Banking and Insurance Commissioner

# Compliance deadlines loom for US global tax evasion law

WASHINGTON/HONG KONG (Reuters) - In one week, the United States is scheduled to begin registering foreign financial firms with U.S. customers for a new anti-tax evasion law, despite industry lobbying to secure another implementation delay.

The Internal Revenue Service still has not finalized sign-up instructions for the new online portal, due to open by July 15 in one of the last steps toward implementing the Foreign Account Tax Compliance Act (FATCA) of 2010.

Hundreds of thousands of banks, insurance companies and investment funds with U.S. customers are required to register with the IRS, an arm of the U.S. Treasury, by Oct. 25 to avoid FATCA penalties starting on Jan. 1, 2014.

"At this point people have thrown up their hands," frustrated by the lack of guidance despite the looming deadline, said Laurie Hatten-Boyd, a principal at Big Four accounting firm KPMG LLP. Treasury officials will need to consider postponing the penalties if they do not produce guidance before the end of July, she said.

The Securities Industry and Financial Markets Association (SIFMA), the industry's largest trade group, last month renewed its call for FATCA penalties to be delayed until 2015.

The Treasury has missed FATCA deadlines before. The law's start date was delayed once already, by a year, to Jan. 1, 2014.

A Treasury spokeswoman declined to comment on the

status of the portal, saying only that work was going ahead on implementing FATCA.

The law is an unprecedented effort to root out U.S. tax evasion on a global scale. It requires foreign financial institutions to report to the IRS information about U.S. client accounts worth more than \$50,000.

It has been decried by companies and U.S.-ally countries as unilateral, over-reaching and a breach of privacy.

U.S. law requires that Americans pay taxes on their global income, not just domestic income.

Banks that do not share client information with the IRS face up to a 30 percent withholding tax beginning in 2014.

There are fears that late advice from the IRS on the registration process could create a registration bottleneck later this year, leading to financial institutions being hit with penalties in 2014 through no fault of their own.

"The worst-case scenario is that the portal is overloaded," said Karl Egbert, a lawyer with Dechert LLP in Hong Kong.

In an effort to address some foreign concerns, the United States has signed FATCA deals with nine other governments so far that allow firms to report U.S. client information via their local tax authorities rather than directly to the IRS.

About 80 countries are in negotiations with U.S. Treasury officials about such pacts, known as intergovernmental agreements (IGAs), analysts said.

# Japan's Docomo holds out against iPhone mania

TOKYO (Reuters) - NTT Docomo Inc., Japan's largest mobile provider and a pioneer of the mobile Internet, is one of just a few holdouts among the world's big mobile carriers not offering Apple Inc.'s iPhone to its 60 million customers.

It is paying heavily for that obstinacy - with a net 3.2 million users jumping ship to its two domestic rivals over the last four and a half years.

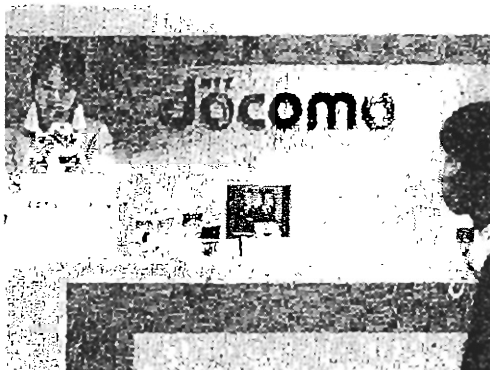
While customers and even some executives increasingly clamor for it to relent and sign an iPhone deal, Docomo is showing no signs of softening towards Apple.

"The biggest problem is the impact on the services that we offer," Kato said.

Docomo's broad offering of exclusive features, however, is no longer attracting what has become the iPhone generation. It is expected eventually to either reach a deal with Apple or risk losing its crown at the top of its industry.

"Unit sales are doing quite well this year but they're still losing customers to other networks," said Hiroshi Yamashina, senior telecoms analyst at BNP Paribas.

Japanese consumers favored Docomo's mode of integrated system back when it launched the world's first large-scale mobile web access service and



The logo of Japan's biggest mobile phone operator NTT Docomo is seen at its shop in Tokyo on July 3. Reuters

introduced streamed TV to cellphone users. But its wide array of features - while retaining its share of fans - is not considered sufficient to counter the appeal of the iPhone.

"Its photo service, for example, is very difficult to use and I'm not sure anyone still bothers in the age of Instagram and Flickr," Yamashina said.

Docomo's resistance contrasts with holdouts in other markets that are giving in this year to the demand for iPhones.

T-Mobile U.S. Inc.'s CEO said its April release of the iPhone filled a "huge void" in its line-up.

China Mobile Ltd., the world's largest mobile carrier by number of subscribers, is

moving to upgrade its service with 4G technology to allow the 10 million of its customers who already own the iPhone to connect to its network, rather than being restricted to WiFi.

Docomo's stubbornness is particularly noteworthy in Japan, where the iPhone not only has established itself as the kingpin in the smartphone market, with a 42 percent share in the last three months of 2012, but is fending off Samsung Electronics Co. Ltd.'s Galaxy series, which has found popularity in other major global markets. Samsung has 46 percent of Western Europe's smartphone market, but has reached only one-fifth of iPhone's sales in Japan.

# Asian stocks sink on China growth jitters

BANGKOK (AP) - Concern over China's slowdown weighed on Asian stocks Monday while European markets regained their footing after last week's stronger-than-expected U.S. jobs report.

The U.S. hiring report Friday added to the likelihood the Federal Reserve will begin winding down its massive stimulus effort this year. Speculation about the Fed's timing has contributed to big swings in world markets for weeks.

Most Asian markets fell amid renewed worries that economic recovery in China, the world's No. 2 economy, is faltering.

Hong Kong's Hang Seng closed down 1.3 percent at 20,582.19. Mainland Chinese shares sank with the Shanghai Composite Index down 2.4 percent to 1958.27. The smaller Shenzhen Composite Index lost 3.6 percent to 889.53.

"There is just no support for the market to rise, and the trend

of going down won't be changed in the longer term based on the economic outlook," said Guo Yanhong, an analyst at Huachuang Securities in Beijing.

The Chinese central bank's clampdown on easy credit has also fueled concerns about China's faltering economic recovery.

Peter Elston of Aberdeen Asset Management said a deeper problem is that China can no longer rely on its cheap manufacturing and easy government credit to maintain its rapid pace of expansion.

"What is happening now with China is that people are beginning to suspect that it may have reached the limits of that growth model," Elston said.

Japan's Nikkei 225 fell 1.4 percent to 14,109.34. South Korea's Kospi dipped 0.9 percent to 1,816.85. Taiwan's TAIEX fell 1.4 percent to 7,886.34 and Indonesia's JSX was down 3.9 percent to 4,433.63.


**GUAM HOUSING AND URBAN RENEWAL AUTHORITY**  
**BOARD OF COMMISSIONERS MEETING**  
 10:00 A.M., THURSDAY, JULY 11, 2013  
 GHURA's Main Office, 2nd Floor, Conference Room  
 117 Blen Venida Avenue, Sinajana


Agenda:


I. ROLL CALL	V. NEW BUSINESS
II. APPROVAL OF PREVIOUS BOARD MINUTES June 27, 2013	VI. GENERAL DISCUSSION/ANNOUNCEMENT
III. CORRESPONDENCE AND REPORTS	VII. ADJOURNMENT
IV. OLD BUSINESS	

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 Tele No. 475-1322 or TTY #472-3701

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 Governor

  
**Department of Revenue and Taxation**  
 Government of Guam  
 P.O. Box 23607 GMP, Guam 96921  
 Tel: 635-1817/1819 Fax No.: 633-3643

  
 John P. Camacho  
 Director

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## PUBLIC NOTICE

The Banking and Insurance Board will hold a public hearing on Thursday, July 11, 2012, 2:00 p.m. at the Department of Revenue and Taxation Building, Director's Conference Room, at 1240 Army Drive, Barrigada, Guam.

The public hearing will discuss the proposed regulations to the Guam Secure and Fair Enforcement of Mortgage Licensing Act of 2010 (SAFE Act) pursuant to 18 GCA Section 36301 et seq. Chapter 36, Mortgages.

Copies of the proposed regulations for the SAFE Act are available for inspection at the Department of Revenue and Taxation, Insurance Securities Banking and Real Estate Branch until the hearing date. Any interested person may submit testimony or comment on the proposed SAFE Act regulations.

Following this public hearing, the Banking and Insurance Board will discuss the adoption of the SAFE Act regulations and other business.

**ARTEMIO B. ILAGAN**  
 Banking and Insurance Commissioner

THE BANKING AND INSURANCE BOARD MEETING  
DIRECTOR'S CONFERENCE ROOM JULY 11, 2013, THURSDAY 2:00 PM

AGENDA

- I. Approval of Minutes for meeting held on May 9, 2013.
- II. Old Business
  1. The Secure and Fair Enforcement for Mortgage Licensing Act or Safe Act was approved as P.L. No. 30-151 on May 25, 2010.

The Legislature returned the Regulations to our office for further development. The SAFE Act was enacted under Title 18, Business Functions and not under Title 11 of the Banking Code. A banking activity that is set in the Banking code can be the subject of regulation by the Board. Since mortgage origination is a banking activity, the Commissioner submits the SAFE Act Regulations for the approval of the Board. Thereafter, these regulations shall be transmitted to the Guam Legislative Secretary.

Pursuant to the Board direction, on May 14, 2013, the Regulatory Examiner sent via email to all Board Members a draft of the SAFE Act regulations with the strikeout to remove references to residential mortgage lenders, mortgage lenders & servicers and mortgage servicers. A clean draft of the proposed regulations was also sent.

There were issues that were presented by Mark Fish. The issues, included, (a) surety bond amount, (b) fee structure, (c) MLS unique identifier number use, (d) audited financial statements, and (e) exemption of attorneys from mortgage loan originator licensing. No board member responded to the email to volunteer for the Ad Hoc committee to handle any of the five (5) issues.

The Commissioner then instructed the Insurance, Securities, Banking and Real Estate Branch to contact the finance companies for the Ad Hoc discussion and meeting. The Ad Hoc committee composed of the Commissioner, Carmelita Gogue of Marianas Finance, Michael Camacho of Personal Finance Center, two staff members of Senator Michael F.Q. San Nicolas and the Regulatory Examiner met on June 9, 2013.

As a result of the Ad Hoc meeting, a consensus was agreed that the fee structure for a mortgage loan originator shall be changed from \$200.00 to \$500.00. Both finance companies have their financial statements audited by independent Certified Public Accountants and expressed support for audited financial statements for all licensed mortgage loan originators to show financial qualification. The surety bond language is to express that the Banking Commissioner is the Obligee who can demand performance in case of violation of the SAFE Act law or regulations of thereto. The bond amount requirements were not changed.

The NMLS unique loan identifier to be used in all residential loan mortgage documents is found in §3124 of the proposed regulations. Each mortgage loan originator shall clearly show the unique identifier on all residential mortgage loan application forms, solicitations, or advertisements including business cards. The exemption from mortgage loan originator license to attorneys was copied from the HUD regulations. (Please see Federal Register, Vol 76, No. 126, Page 38501, Appendix D. The language in the proposed SAFE Act regulations as set forth in §3105 (1) states:

(1) A residential mortgage loan originator license is not required for a licensed attorney performing activities that come within the definition of a loan originator, provided that such activities are:

- (A) Considered by the state's court of last resort (or other state governing body responsible for regulating the practice of law) to be part of the authorized practice of law within the state;
- (B) Carried out within an attorney-client relationship; and
- (C) Accomplished by an attorney in compliance with all applicable laws, rules, ethics, and standards.

(2) An owner of real property who in any twelve (12) consecutive month period makes no more than five (5) mortgage loans to purchasers of the property for all or part of the purchase price of the real estate against which the mortgage is secured.

A Notice of Public Hearing was published in the Marianas Variety on June 27, 2013. Also on this date, copy of the proposed regulations was sent on to all Board Members together with the copy of the Surety Bond Form to be used. A copy of the Surety Bond is attached.

2. Vincent Insurance Services Corporation. The main issue is whether or not the Commissioner has the authority to retroactively allow and approve the renewal of the certificates of authority. The company did not file audited financial statements in time for each renewal period. The filing was done as follows: Audited Financial Statements for 2004 to 2007 were filed on March 5, 2010; Audited FS 2008 to 2009 were filed on December 16, 2011; Audited FS for 2010 were filed on January 12, 2012.

The decision of the Commissioner and the hearing officer states that Vincent Insurance cannot be issued an insurance license retroactively. Counsel for Vincent Insurance has filed an appeal before the Banking and Insurance Board. A hearing will be held as soon as a hearing officer for the Board can be arranged with the assistance of the Attorney General. The counsel for Vincent Insurance Services Corporation is also asking for a transcript of the records of the administrative proceedings. Without the transcript of records and hearing officer for the Board, the hearing cannot be scheduled.

3. In regards to the letter requiring the Government of Guam autonomous agencies to deposit funds (particularly TCDs) with eligible banks. The first request was sent to AG

John Weisenberger on August 4, 2010. A follow up request for opinion was submitted to AG Leonardo Rapadas on April 2, 2013. There is no response at this time.

4. The Patient Protection Affordable Care Act (PPACA) became law on March 23, 2010.

The National Association of Insurance Commissioners (NAIC) has created a working committee for all NAIC members in relation to the establishment or non-establishment of Exchanges for the states and territories. The territories have requested the assistance of the NAIC to identify which provisions of the Affordable Care Act do not apply to the territories including Guam.

The US Virgin Islands has spent the \$1 million grant for a study to determine if the Health Insurance Market (formerly called the Health Insurance Exchange) is feasible. The study found that a small population and a low household income a Health Insurance Market in the US Virgin Islands does not appear to be self-sustaining under current revenue sources.

Guam has also small population. Guam's population also has a low household income compared to other states like Hawaii or California. Guam has until October 1, 2013 to opt in to establish a Health Insurance Market or to opt out.

5. Oceanic Bank Guam has been purchased by the First National Bank of Northern California. The purchased was approved by the FDIC. Effective September 24, 2012, Oceanic Bank Branch in Guam became First National Bank of Northern California. (FNB California). The Guam branch of FNB California has been closed with the approval of the Office of the Controller of Currency effective June 2013. The balance sheet of the Guam branch of FNB California is attached. All deposits have been reduced to Zero. All outstanding loan receivables were transferred to the FNB California Branch.
6. The Guam Branch of Allied Bank has informed our office that it has merged with Philippine National Bank in February 2013. Allied Bank has been informed that certified copies of the merger document shall be filed with the Department and with the Commissioner.

In the May 9, 2013 Banking and Insurance Board Meeting, the Board was furnished copies of the audited financial statement of both Allied Banking Corporation and Philippine National Bank.



III. New Business

1. Bank of Hawaii has informed the Commissioner that the following in-store bank branch at Payless Yigo and Payless at Micronesia Mall will be closed effective August 31, 2013. The ATM machines located within the each of the store will remain in place.
2. Sometime in June 2013, card holders with American Express received some form of settlement. The account that arises from the use of credit card is a revolving loan account. The amount of interest that can be charged under a revolving loan account is set forth in the Uniform Commercial Credit Code (UCCC), 14 GCA §3509.

A bank that is licensed in Guam verbally communicated that there might have been non-compliance with the provisions for charging interest on revolving loan accounts.

Lenders can charge interest based on (a) average daily balance of the debt, (b) the unpaid balance of the debt on approximately the same day of the billing cycle or (c) the median amount within a specified range which the daily balance or the unpaid balance of the debt on approximately the same day of the billing cycle, is included. A charge pursuant to a median amount can be made only if the same percentage is applied to all balances within the specified range and if the charge calculated on the median amount is no more than eight percent (8%) greater than the charge that would be calculated on the actual unpaid balance that is computed on average daily balance of the debt or computed on the unpaid balance of the debt approximately the same day of the billing cycle.

If the billing cycle is monthly, the charge may not exceed:

Two percent (2%) of the revolving loan amount from Dollar up to \$500.00.

One and one half percent (1.5 %) on the part of the revolving loan amount which is more than \$500.00.

If the billing cycle is not monthly, the maximum charge is that percentage which bears the same relation to the applicable monthly percentage as the number of days in the billing cycle bears to thirty (30).

Assuming there is noncompliance with §3509, what is the statute of limitation with regards to noncompliance? This is the question asked by the bank.

There is no statute of limitation that can be found in the Uniform Consumer Credit Code. There is a provision on record keeping.

The records pertaining to any loan need not be preserved for more than two (2) years after making the final entry relating to the loan. (14 GCA §3505). Similar language in the regulations state "cards used in a ledger card system, for at least two (2) years after making the final ledger card entry. (15 GAR §2111). There is no definition of the term "two years after making the final entry relating to the loan or two years after making the final ledger card entry." The question is for a revolving loan account when does the two years after making the final entry to the loan account start?

This matter is brought to the attention of the Board. The Board can provide guidance on the term "two years after making the final entry relating to the loan" for revolving loan accounts.

**BANKING AND INSURANCE**

**BOARD OF DIRECTORS MINUTES**

July 11, 2013, Thursday, 2:00pm

Director's Conference Room, Department of Revenue and Taxation  
1240 Army Drive (Route 16), Barrigada, Guam 96913

Attendance:

Artemio B. Ilagan, Chairman, and Banking & Insurance Commissioner

Members:

Antonita S. Camacho

William West Cassidy

Cesar Garcia

Mark O. Fish

Dave Silva

Also Present:

John Q. Carlos, Regulatory Programs Administrator

Liel Gonzalez

Edna Jara

Angel Bautista

**Guam S.A.F.E. Act Regulations Public Hearing**

For the record, three (3) persons attended the public hearing for the SAFE Act. Also in attendance were six (6) Banking and Insurance Board Members and three (3) employees of the Regulatory Division of the Department of Revenue and Taxation.

Commissioner Ilagan stated that the publication notice requirements were complied with in accordance to the publication law and that the public hearing was properly advertised.

The Commissioner briefed the attendees of the history and current status of the regulations. The regulations that were submitted to the Legislature in January 2012 were not approved and returned for revision.

Mr. Carlos stated that the following changes were made to the regulations (which are based on the Legislature's and Banking & Insurance Board's concerns):

1. References to the licensing of mortgage loan lender, mortgage loan servicer, and mortgage loan lender and mortgage loan servicer were deleted.
2. Changes were also made to the language on the surety bond form.
3. Additional language was added to the exemption for lawyers section.

Mr. Cassidy commented that he is concerned that the surety bond form as written does not protect a harmed party, but only the Government, and should be revised. Also, he stated that there is no renewal date and this should be included.

Mr. Fish inquired about the cost for an audited financial statement, as he is concerned about the expense to the individual applicant for a mortgage loan originator license, since the audited financial statement is a listed requirement.

Another item that Mr. Fish was concerned with was the language of the exemption for lawyers. He stated that the exemption should be limited to 5 or 12 transactions per year as the current regulations do not state a limit. Discussion was among Board Members and a consensus was reached that language should be included that the exemption for lawyers should only be based on court appointed transactions.

Mr. Garcia commented that the primary purpose of the surety bond was to pay for penalties, due to non compliance issues. Professional indemnity insurance would cover other types of liabilities incurred. Also, he stated that in regards to the exemptions for lawyers, he commented that there is probably a reason for HUD giving an exemption to lawyers and not to other professions. He added that if the Board feels that the bond forms should be revised along with the regulations exempting lawyers, he is willing to support both in order to move forward.

The Commissioner commented that the Board has been working on the regulations for over two (2) years now and that any other issues should be addressed soon in order to forward the regulations to the Legislature to prevent any further delay.

The Commissioner concluded the public hearing at 3:27P.M.

#### Banking & Insurance Board Meeting:

Today's scheduled Banking & Insurance Board Meeting was rescheduled for August 15, 2013, at 2P.M. for lack of quorum. Three (3) Board members were not able to attend.



Dipattamenton Kontribusion yan Adu'ana

DEPARTMENT OF

# REVENUE AND TAXATION

GOVERNMENT OF GUAM

Gubetnamenton Guahan

EDDIE BAZA CALVO, Governor / Maga'lahi  
RAY TENORIO, Lt. Governor / Tifente Gubetnadot

JOHN P. CAMACHO, Director  
Direktot  
MARIE M. BENITO, Deputy Director  
Segundo Direktot

## ATTENDANCE SHEET

PUBLIC HEARING on the REGULATIONS for the GUAM SAFE ACT, &  
THE BANKING AND INSURANCE BOARD MEETING  
DIRECTOR'S CONFERENCE ROOM July 11, 2013, THURSDAY 2:00 PM

NAME	TIME	CONTACT NUMBER	SIGNATURE
Artemio B. Ilagan, Banking & Insurance Commissioner	2:00		
Edelfrida A. Ada	ABSENT		
Danilo Rapadas	ABSENT		
William W. Cassidy	2:00PM	721-3834	
Mark O. Fish	2:00pm	488-3474	
Dave Silva	2:20	777-2668	
Antonita S. Camacho	2:00	482-3723	
Rose Fejeran	ABSENT		
Cesar Garcia	2:00	486-0648	
<u>Daw Tax Staff</u>			
John Q. Carlos	2pm		
Alice S. Cruz	2pm		
Robert D. Tongson	2pm		



## Drug evidence might be unusable

By Gina Tabonares-Reilly  
gina@mvguam.com  
Variety News Staff

IF IT is proven that drug case evidence against Ryan Gumataotao was obtained without a warrant, the 2008 case against the Sinajaña resident could end up being dismissed.

In a motion filed by Federal Public Defender John T. Gorman, the defense told the court that the physical evidence seized and the statements made by Gumataotao during the investigation of the case should be suppressed because there is no evidence that the officers sought or received a warrant to install a tracking device on the parcel.

In August 2008, Guam Customs and Quarantine Officer Joseph Gange was performing an inspection of United Parcel Service packages at the GCO office when he inspected a parcel that contained a clear Ziploc bag with approximately 29 grams of a substance that tested positive for methamphetamine.

The parcel had a tracking number addressed to Gumataotao of 288 A B Won Pat Street, Sinajaña. The sender was identified as Katrina De Cintro of San Jose, Calif.

Reports indicated that the GCO officer were alerted to the package from information provided by U.S. Drug Enforcement Administration Special Agent Danny Cho approximately 34 months earlier in October 2005.

### Verifying

On the same day, GCO personnel contacted DEA Task Force Officer Eugene McDonald and DEA agent Kenneth Bowman, verifying that Gumataotao resides in the Sinajaña address.

According to UPS personnel, Gumataotao called UPS regarding the package and went to the UPS office to check on the package on Aug. 12, 2008.

The government obtained an anticipatory search warrant for the residence of Gumataotao which permitted execution if the electronic tracking device gave an alert that the package has been opened.

But Attorney Gorman said there is no evidence that the officers sought or received a warrant to install a tracking device on the parcel.

At approximately 2 p.m., DEA and GCO personnel made a controlled delivery of the package to the Sinajaña address. Gumataotao signed for the package. The DEA and GCO personnel then entered the residence and arrested Gumataotao.

Gorman contended that the seized illegal drugs, the evidence seized at the Sinajaña residence, and the statements made by Gumataotao must be suppressed as the officers had no reasonable suspicion to seize and open the parcel and there was no warrant to install a tracking device inside the parcel.



Two different judicial opinions have been issued on the competency of Superior Court Judge Maria Cenozo, shown here during her investiture ceremony. Variety News photo.

## Mixed opinions on judge competency

By Gina Tabonares-Reilly  
gina@mvguam.com  
Variety News Staff

TWO similar civil cases involving the same parties and presiding judge received two different opinions on the issue of the competency of Superior Court Judge Maria Cenozo.

The two cases involve Quality Distributors and Pacific Restaurants LLC. One of the cases was filed by Quality Distributors in 2011 against Pacific Restaurants (Chili's), while the other case was filed in 2012 by Pacific Dining LLC (Lone Star Steakhouse).

Quality Distributors questioned the competency of Judge Cenozo, who represented Brian Artero, the president of Pacific Restaurants as an attorney in private practice prior to being assigned as trial court judge.

Although Pacific Restau-

rants argued that the case in which Judge Cenozo represented Artero had no relation to the civil case before the court, Judge Anita Sukola ruled that her recusal from presiding over the case is appropriate.

In her Aug. 15 order, Judge Sukola granted Distributors' objection to the competency of the presiding judge.

"Notwithstanding the fact that Judge Cenozo previously represented Defendant Artero in a matter unrelated to the instant case, the fact that Honorable Judge represented defendant in a case regarding a similar issue and while defendant was acting in his capacity as the representative of Pacific Dining LLC leads this court to believe that a reasonable person may find the appearance of bias or prejudice present in this case."

Judge Sukola said.

However, in a similar case filed by Pacific Dining against Quality Distributors, Judge James Canto II ruled that there were insufficient grounds to disqualify Judge Cenozo from presiding over the 2012 civil case.

Judge Cenozo affirmed her previous disclosure regarding prior representation but told Judge Canto that she does not have a personal bias or prejudice concerning any of the parties, notwithstanding her prior representation in an unrelated matter that happened five years ago.

Judge Canto ruled that the prior representation of a party by a judge or his or her firm with regard to a matter unrelated to the litigation before that judge does not by itself warrant recusal.

## New lane configurations

(DPW) - Motorists traveling through Route 1 to 8 (Hagåtña Bridges area) are advised to be aware of new lane configurations, lane shifts and detours.

Starting yesterday up to 5 a.m. today, north-bound traffic will be shut down on Marine Corps Drive between Route 4 and Route 8 in Hagåtña.

Motorists are asked to use Route 7A (East & West O'Brien Drive) as a detour route during this time.


In addition, Route 1

is reduced to two lanes in each direction.


Route 1 between Route 4 and Route 8 will be reduced to one lane in each direction up to 5 a.m. today.

Route 4 at the intersection of Route 1 will also have lane closures up to 5 a.m.

Motorists are advised to drive cautiously through construction zones and observe all posted speed limit and construction signs. Alternative routes and/or adjusting drive times when feasible are encouraged.



**Department of Revenue and Taxation**  
Government of Guam  
P.O. Box 23807 GME, Guam 96921  
Tel: 635-1817/1819 Fax No: 633-2643



**Banking and Insurance Commission**

PUBLIC NOTICE

The Banking and Insurance Board will hold a public meeting on Thursday, September 5, 2013, 2:00 p.m. at the Department of Revenue and Taxation Building, Director's Conference Room, at 1240 Army Drive, Barrigada, Guam. The meeting agenda include the proposed regulations to the Guam Secure and Fair Enforcement of Mortgage Licensing Act of 2010, banking and insurance matters.

ARTEMIO B. ILAGAN  
Banking and Insurance Commissioner

The Honorable  
**EDUARDO B. CANTO**  
Governor



The Honorable  
**MARILYN B. HERRING**  
Lieutenant Governor

## NOTICE TO SOLICIT INTEREST

# Wildlife Hazard Management Services

The A.B. Won Pat Int'l. Airport Authority, Guam (GIAA), is soliciting interest from all qualified and interested parties in providing Wildlife Hazard Management Services and related training to GIAA staff. All interested parties shall submit a "Statement of Interest," no later than 4:00 p.m. on Sept. 12, 2013, to the attention of the Executive Manager, at the GIAA Administration Office, 3rd floor, Main Terminal, between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays, or send it to the address listed below.

For additional information, contact GIAA's Procurement Office at (671) 646-0300 during the hours stated above.

**CHARLES H. ADA II**  
Executive Manager

**PEDRO ROY MARTINEZ**  
Deputy Executive Manager

A B WON PAT

# Russian tourist arrivals double, charter flights to begin

By Frank Whitman  
frank@mwguam.com  
Variety News Staff

THE number of Russian tourists arriving in Guam during the first seven months of 2013 was 4,177 - already surpassing the 4,040 Russian arrivals on Guam during the entire previous year. And the trip to Guam from eastern Russia will become more convenient when direct flights chartered by Aviacharter DV begin in November.

"I wouldn't be surprised if we hit 9,000 or 10,000 arrivals this year," said Bart Jackson, chairman of the Russia and New Markets Committee of the Guam Visitors Bureau. "That would be great."

As visa parole authority for Russian visitors is in the middle of its second full year, the island is becoming more conscious of the potential and the challenges of that market.

The number of Russian visitors to Guam is not likely to rival that of the island's top source markets, primarily because the population of the area providing Guam visitors is about 2 million. Jackson said he sees the potential of about 50,000 visitors which would represent good penetration of the market.

Russians are valued as guests since their average stay is 14.3 days - about five times the average stay of a Japanese visitor.



Bart Jackson, chairman of the Russia and New Markets Committee of the Guam Visitors Bureau, thinks Russian visitor arrivals may hit the 10,000 mark this year. Frank Whitman/Variety

"It would have the impact of about 250,000 Japanese arrivals," he said.

Having a room occupied for the longer stay also offers hoteliers stability. "It's less expensive to have a customer stay a long time than to turn a room over completely every three nights or four nights."

## Adventurous

Russians tend to be adventurous - and so have an impact on a wider section of the island. "They rent cars and drive around the island," Jackson said. "They're happy to go to every little mom-and-pop store and spend their money. They're out at all the stores, not just the malls."

Some have bought real estate in Pago Estates and condo-

miniums in other areas. "Guam is an attractive place for the individual Russian investor who's looking for a summer home," Jackson said.

Currently, the industry's primary challenge is the limited number of Russian speakers on Guam. "Even hotels like [Pacific Islands Club], that have more Russian speakers than anybody else, probably have three or four," Jackson said. "Nobody has enough Russian speakers on their staff to handle 24-hour challenges." He added there are only four Russian ground handlers who have grown up in this environment.

The four are Guam Troika Tours, Guam Voyage, Belka Tours Guam, and Russia Guam

Tours. The latter is owned by Rita Jackson, wife of Bart. "They're a translation contact - always available," Bart Jackson said. "It's not uncommon for us to be at dinner and my wife's phone will ring." Such calls are often from a Russian guest at a restaurant asking her to translate the guests' dinner order to the waiter.

## Higher yield

Guam is best served by maintaining higher prices and attracting the higher and

middle levels of the Russian tourist market. One consideration is the simple economics of targeting a higher yield per guest. In addition, "A lower priced market in Japan attracts a younger person who doesn't spend a lot of money," he said. "A lower-priced market in Russia is going to be very rough around the edges; it's really not our customer."

The increase in Russian tourists on Guam has apparently benefited Saipan as well, despite fears it would hurt the Northern Mariana Islands destination which has been hosting growing numbers of Russian visitors for years and has seen a near doubling of Russian arrivals in 2013.

"The reality is that it's created a regional destination with that much more opportunity to get name recognition," Jackson said. "There are charters from Vladivostok and Khabarovsk to Saipan every week. [My wife] does a pretty good business with folks who are staying in Saipan who come to Guam for three or four days - usually shopping."

## Court denies motion of airman in rape case

By Gina Tabonara-Reilly  
gina@mwguam.com  
Variety News Staff

THE first-degree criminal sexual conduct charges against Thomas Gregory Arnold will proceed after the court denied his motion to dismiss the case.

The 38-year-old United States airman was indicted with first-degree criminal sexual conduct for allegedly having oral sex with a minor.

With his lawyer Jeffrey Moets, Arnold argued that the charges should be dismissed because the grand jury heard evidence that penetration did not occur.

The defense maintained that oral sex, or cunnilingus, is not sexual penetration unless it is committed in conjunction with any other intrusion, however slight, of any part of a person's body, or of any object into the genital or anal openings of another person's body.

The defendant argued that there are no rational grounds to assume the possibility of sexual penetration.

Assistant Attorney General Elizabeth S. Vasiliades argued on behalf of the government.

After the oral arguments, Judge James Canto disagreed with the defense, saying there are rational grounds for the

grand jury to assume the possibility of sexual penetration as legally defined by the Legislature on the basis of cunnilingus.

Canto earlier denied Arnold's release to his immediate supervisor, Capt. John Johnson, as the third-party custodian. Despite an assurance that Arnold will be supervised at all times and that the victim has relocated to California, Canto denied the motion for the defendant's release.

## Decision

The judge, however, maintained that Arnold should remain behind bars with a prescribed \$50,000 cash bail while facing charges of one count of first-degree criminal sexual conduct as a first-

degree felony; three counts of second-degree criminal sexual conduct as a first-degree criminal felony; and one count of child abuse as a misdemeanor.

Arnold was arrested on April 9 after Guam Police Department officers met with investigators from the Air Force Office of Special Investigation, who informed them that the victim had reported the alleged sexual assault to military chaplain Capt. Richard Rojas, identifying Arnold as the suspect.

According to the statement from the chaplain and the victim, Arnold had been molesting the victim for about 10 years.

**Department of Revenue and Taxation**  
Government of Guam  
P.O. Box 23467 GME, Guam 96921  
Tel: 635-1817/1819 Fax No.: 633-2643

**PUBLIC NOTICE**

The Banking and Insurance Board will hold a public meeting on Thursday, September 5, 2013, 2:00 p.m. at the Department of Revenue and Taxation Building, Director's Conference Room, at 1240 Army Drive, Barrigada, Guam. The meeting agenda includes the proposed regulations to the Guam Secure and Fair Enforcement of Mortgage Licensing Act of 2010, banking and insurance matters.

ARTEMIO B. ILAGAN  
Banking and Insurance Commissioner

**INVITATION FOR BID**  
(MULTI-STEP SEALED BID)  
**Money Exchange Concession**  
IFB NO. GIAA-002-FY13

**MANDATORY PRE-BID CONFERENCE**  
10:00 am - Aug. 21, 2013  
GIAA Conference Room

**SUBMISSION DEADLINE**  
2:00 pm - Aug. 28, 2013  
GIAA Executive Office

The Antonio B. Won Pat Int'l Airport Authority, Guam (GIAA) will receive sealed bids for the above project. Bid documents may be obtained between 8:00 am - 5:00 pm Monday through Friday, excluding holiday. A non-refundable fee of Fifty U.S. Dollars (\$50.00) will be charged for each printed packet or Ten U.S. Dollars (\$10.00) for an electronic file (pdf) on cd, payable in cash or certified/cashier's check payable to GIAA. All prospective bidders are encouraged to attend the mandatory pre-bid meeting. The GIAA reserves the right to reject any and all bids and to waive any and all informatics, and to disregard all non-conforming or conditional bids. For additional information, contact the GIAA Procurement Office at (671) 646-0300-02 during the hours stated above.

**A. B. WON PAT**  
DIRECTOR

**ANTONIO B. WON PAT**  
CHAIRMAN

**ANTONIO B. WON PAT**  
CHAIRMAN

**GUAM U.S. AIR FORCE VETERANS ASSOCIATION**  
P.O. BOX 218134, BARRIGADA, GUAM 96921

**Financial Statement**  
from 1 Jul 2012 to 30 Jun 2013

Balance Forward:	\$1,571.35
Revenues:	
Membership Dues	\$240.00
Miscellaneous	\$13.61
<b>Total Revenue:</b>	<b>\$253.61</b>
Expenses:	
Operational Expense	\$229.00
Donations	\$179.92
Tax Exemption Application - Guam Rev and Tax	\$400.00
<b>Total Expenses:</b>	<b>\$808.92</b>
<b>Total Cash On-Hand</b>	<b>\$1,016.04</b>

/s/ Joseph J. Leon Guerrero, Treasurer



THE BANKING AND INSURANCE BOARD MEETING  
DIRECTOR'S CONFERENCE ROOM SEPTEMBER 05, 2013, THURSDAY 2:00 PM

AGENDA

- I. Approval of Minutes for meeting held on May 9, 2013.
- II. Old Business
  1. The Secure and Fair Enforcement for Mortgage Licensing Act or Safe Act was approved as P.L. No. 30-151 on May 25, 2010.

The Legislature returned the Regulations to our office for further development. The SAFE Act was enacted under Title 18, Business Functions and not under Title 11 of the Banking Code. A banking activity that is set in the Banking code can be the subject of regulation by the Board. Since mortgage origination is a banking activity, the Commissioner submits the SAFE Act Regulations for the approval of the Board. Thereafter, these regulations shall be transmitted to the Guam Legislative Secretary.

Pursuant to the Board direction, on May 14, 2013, the Regulatory Examiner sent via email to all Board Members a draft of the SAFE Act regulations with the strikeout to remove references to residential mortgage lenders, mortgage lenders & servicers and mortgage servicers. A clean draft of the proposed regulations was also sent.

On July 11, 2013, there a public hearing was held for the SAFE Act Regulations. Mark Fish discussed that a licensed attorney may use the provisions to do numerous residential mortgage loan originations under agreement of an attorney client relationship. After some discussions he commented that the exemption to attorneys be limited to situations where an attorney is appointed by a court to handle mortgage loan origination under a client attorney relationship.

West Cassidy discussed that the surety bond appears to be continuous, non-cancellable even for nonpayment of premium. Commissioner Artemio Ilagan commented that the bond must be in place at the time of issuance and at the time of renewal. After discussions from David Silva and Cesar Garcia, the surety bond form shall be modified to show that the surety shall exist for a period that is synchronized to be in effect at the time of the issuance and at the time renewal of the mortgage loan originator's license.

The Commissioner then instructed the Regulatory Administrator to modify the SAFE Act Regulations and thereafter to circulate the revised language to all members of the Board. The Commissioner stated that the regulations have taken too long and needs to be adopted in August 2013.

As a result of the July 11, 2013 Public Hearing, the following sections were revised to read:

- (1) A residential mortgage loan originator license is not required for a licensed attorney performing activities that come within the definition of a loan originator, provided that such activities are:
- (A) Considered by the state's court of last resort (or other state governing body responsible for regulating the practice of law) to be part of the authorized practice of law within the Island of Guam;
  - (B) Carried out within an attorney-client relationship;
  - (C) Accomplished by an attorney in compliance with all applicable laws, rules, ethics, and standards; and
  - (D) Pursuant to an attorney-client relationship, a court of Guam had issued an order that the named attorney had been entrusted with the duty to perform residential mortgage loan origination for and in behalf of a named client.

Because of the issues raised on the exemption to the attorneys from securing a mortgage loan origination, it was deemed prudent to adopt the provisions of the SAFE Act law exemption to attorneys. This exemption in 18 GCA Section 36304 (c)(4) is set forth below:

(4) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, *unless* the attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator.

(2) An owner of real property who in any twelve (12) consecutive month period makes no more than five (5) mortgage loans to purchasers of the property for all or part of the purchase price of the real estate against which the mortgage is secured.

A copy of the revised Surety Bond Form which is attached to the SAFE Act Regulations is attached.

2. Vincent Insurance Services Corporation. The main issue is whether or not the Commissioner has the authority to retroactively allow and approve the renewal of the certificates of authority. The company did not file audited financial statements in time for each renewal period. The filing was done as follows: Audited Financial Statements for 2004 to 2007 were filed on March 5, 2010; Audited FS 2008 to 2009 were filed on December 16, 2011; Audited FS for 2010 were filed on January 12, 2012.

The decision of the Commissioner and the hearing officer states that Vincent Insurance cannot be issued an insurance license retroactively. Counsel for Vincent Insurance has filed an appeal before the Banking and Insurance Board. A hearing will be held as soon as a hearing officer for the Board can be arranged with the assistance of the Attorney General. The counsel for Vincent Insurance Services Corporation is also asking for a transcript of the records of the administrative proceedings. Without the transcript of records and hearing officer for the Board, the hearing cannot be scheduled.

3. In regards to the letter requiring the Government of Guam autonomous agencies to deposit funds (particularly TCDs) with eligible banks. The first request was sent to AG John Weisenberger on August 4, 2010. A follow up request for opinion was submitted to AG Leonardo Rapadas on April 2, 2013. There is no response at this time.
4. The Patient Protection Affordable Care Act (PPACA) became law on March 23, 2010.

The National Association of Insurance Commissioners (NAIC) has created a working committee for all NAIC members in relation to the establishment or non-establishment of Exchanges for the states and territories. The territories have requested the assistance of the NAIC to identify which provisions of the Affordable Care Act do not apply to the territories including Guam.

The US Virgin Islands has spent the \$1 million grant for a study to determine if the Health Insurance Market (formerly called the Health Insurance Exchange) is feasible. The study found that a small population and a low household income a Health Insurance Market in the US Virgin Islands does not appear to be self-sustaining under current revenue sources.

Guam has also small population. Guam's population also has a low household income compared to other states like Hawaii or California. Guam has until October 1, 2013 to opt in to establish a Health Insurance Market or to opt out.

5. Oceanic Bank Guam has been purchased by the First National Bank of Northern California. The purchased was approved by the FDIC. Effective September 24, 2012, Oceanic Bank Branch in Guam became First National Bank of Northern California. (FNB California). The Guam branch of FNB California has been closed with the approval of the Office of the Controller of Currency effective June 2013. The balance sheet of the Guam branch of FNB California is attached. All deposits have been reduced to Zero. All outstanding loan receivables were transferred to the FNB California Branch.

6. The Guam Branch of Allied Bank has informed the Commissioner that it has merged with Philippine National Bank in February 2013. In the May 9, 2013 Banking and Insurance Board Meeting, the Board was furnished copies of the audited financial statement of both Allied Banking Corporation and Philippine National Bank. On May 2013, Philippine National Bank, the surviving corporation was registered as a foreign corporation. On July 2013, the merger documents between Philippine National Bank and Allied Banking Corporation was filed. Pursuant to this merger document, the foreign banking license issued in June 2013 to Allied Banking Corporation was canceled and a new foreign banking license was issued to Philippine National Bank.

III. New Business

1. Bank of Hawaii has informed the Commissioner that the following in-store bank branch at Payless Yigo and Payless at Micronesia Mall will be closed effective August 31, 2013. The ATM machines located within the each of the store will remain in place.
2. Sometime in June 2013, card holders with American Express received some form of settlement. The account that arises from the use of credit card is a revolving loan account. The amount of interest that can be charged under a revolving loan account is set forth in the Uniform Commercial Credit Code (UCCC), 14 GCA §3509.

A bank that is licensed in Guam verbally communicated that there might have been non-compliance with the provisions for charging interest on revolving loan accounts.

Lenders can charge interest based on (a) average daily balance of the debt, (b) the unpaid balance of the debt on approximately the same day of the billing cycle or (c) the median amount within a specified range which the daily balance or the unpaid balance of the debt on approximately the same day of the billing cycle, is included. A charge pursuant to a median amount can be made only if the same percentage is applied to all balances within the specified range and if the charge calculated on the median amount is no more than eight percent (8%) greater than the charge that would be calculated on the actual unpaid balance that is computed on average daily balance of the debt or computed on the unpaid balance of the debt approximately the same day of the billing cycle.

If the billing cycle is monthly, the charge may not exceed:

Two percent (2%) of the revolving loan amount from Dollar up to \$500.00.

One and one half percent (1.5 %) on the part of the revolving loan amount which is more than \$500.00.

If the billing cycle is not monthly, the maximum charge is that percentage which bears the same relation to the applicable monthly percentage as the number of days in the billing cycle bears to thirty (30).

Assuming there is noncompliance with §3509, what is the statute of limitation with regards to noncompliance? This is the question asked by the bank.

There is no statute of limitation that can be found in the Uniform Consumer Credit Code. There is a provision on record keeping.

The records pertaining to any loan need not be preserved for more than two (2) years after making the final entry relating to the loan. (14 GCA §3505). Similar language in the regulations state "cards used in a ledger card system, for at least two (2) years after making the final ledger card entry. (15 GAR §2111). There is no definition of the term "two years after making the final entry relating to the loan or two years after making the final ledger card entry." The question is for a revolving loan account when does the two years after making the final entry to the loan account start?

#### 1. National Bank Act (R.S. Sec. 5198)

This section, in case usurious interest has actually been paid, gives to the borrower the right to recover back twice the amount of interest thus paid from the association taking or receiving the same; provided, that such action is commenced within two years from the time the usurious transaction occurred.

The US Supreme Court has held that the remedy provided the borrower by the statute is exclusive, and further ruled that in an action by a bank to collect the principal debt the borrower cannot set up by way of counterclaim or set-off that the bank has received usurious interest.

[see *Barnet v. Muncie Nat. Bank*, 1878, 98 U. S. 555. The rule established by the Supreme Court has been enforced, in actions by national banks, by the State courts. See *Peterborough Nat. Bank v. Childs*, 1882, 133 Mass. 248; 43 Am. Rep. 509 ; *Central Nat. Bank v. Haseltine*, 1900, 155 Mo. 58; 55 S. W. 1015; 85 Am. St. Rep. 531, (aff. 183 U. S. 132 ; 22 S. Ct. 50); *Nat. Bank v. Lewis*, 1880, 81 N. Y. 15; *Nat. Bank v. Dushane*, 1880, 96 Pa. St. 340. But see *Wachovia Nat. Bank v. Ireland*, 1898, 122 N. C. 571; 29 S. E. 835. See 5 Fed. Stat. Anno. 133, for extensive collection of authorities. The same rule was applied, in *Caponigri v. Altieri*, 1901, 165 N. Y. 255; 59 N. E. 87, to a case arising under a New York statute similar to the National Bank Act.]

3. A consumer has complained that a convenience store requires the purchaser to make a minimum of \$10.00 purchase of goods before the vendor will accept payment by the use of credit card. Do credit card companies require a minimum purchase amount for the use of credit cards or is this merely the requirement of the vendor? What is the fee charged by credit card companies each time a vendor or a merchant accepts a credit card for payment of a purchase of goods or services? What is the fee charged by credit card companies for payments of fees or taxes paid to Government of Guam using credit cards like VISA and MasterCard for payments?

## **BANKING AND INSURANCE**

### **BOARD OF DIRECTORS MINUTES**

September 5, 2013, Thursday, 2:00 pm  
Director's Conference Room, Department of Revenue and Taxation  
1240 Army Drive (Route 16), Barrigada, Guam 96913

Attendance:

Artemio B. Ilagan, Chairman, and Banking & Insurance Commissioner

Board Members:

Edelfrida A. Ada

Rose Fejeran

Antonita S. Camacho

Cesar Garcia

Mark O. Fish

(absent)

Danilo Rapadas

Dave Silva

William West Cassidy

Also present: John Carlos, Regulatory Programs Administrator and Anita Superales, Regulatory Examiner I.

Call to Order:

The meeting started with a roll call as Chairperson Art Ilagan called the Banking and Insurance Board Meeting to order at 2:15 pm and acknowledged the presence of the seven (7) board members listed above. Antonita Camacho was not present.

I. Approval of minutes:

The approval of minutes by the board meeting held on May 9, 2013 was presented for discussion. Motion to accept the minutes by Mark Fish was seconded by Danilo Rapadas. The board unanimously approved the minutes.

II. Old Business:

1. **Approval of the SAFE Act Regulations.**

Chairperson Art Ilagan stated the Safe Act Regulations have been pending for the longest time. It has brought up to the Legislature and the Attorney General Office. There were some issues with the SAFE Act. Issues were brought up and discussions made but was later resolved. Chairperson presented the SAFE Act Regulation were presented for approval. A motion to approve the SAFE Act Regulations by Edelfrida Ada then seconded by Rose Fejeran. The board unanimously approved the regulations, which it will be sent down to the Legislature with the Attorney General approval.

## **2. Vincent Insurance Corporation:**

The hearing before the Commissioner was with the assistance of Mr. Bob Cruz, the Hearing Officer. The commissioner confirmed that the Certificate of Authority to write insurance could not be retroactively given. After the hearing, Vincent Insurance signified that it would appeal the decision of the Commissioner before the Board. The lawyer of Vincent Insurance was given a complete record. The counsel for Vincent Insurance is also asking for a transcript of the records. A transcript will be given on a later date, but a copy of the CD was provided to them.

Discussion with Vincent Insurance:

Vincent Insurance wants to appeal the decision on the hearing before the Commissioner for the Board's decision but they want the transcript first. Now, what happen if the board decision is adverse, the Vincent do they have further recourse or does it end there. Does the Board have the authority; so this has gone to the Attorney General and the Attorney General is stating that he cannot, and he is appealing the hearing officer's process. Does the board have the authority to overturn the Attorney General's ruling on it? Definitely, the board has the authority to overturn the ruling, which provided for in the powers of the board.

The chairperson stated that the issue that it is not retroactive it is the process of getting it done. Vincent is not in compliance with the audits in a timely manner. This was what the Attorney General was looking at. Their Audited Financial Statements were not filed on time, when this is one of the requirements and when it came out for their certificate that is when they started filing prior years. That is the issue with the Attorney General's Office. A timeline for Vincent Insurance has to be scheduled for an appeal to the Board for a ruling.

## **3. Deposits to the Banks of Government Agency:**

Government of Guam's deposit to Banks is still with the Attorney General's Office, Shanon Taitano is the Assistant Attorney General and her decision is still pending.

Mark Fish asked, what is the Commissioners' opinion on Government Agencies putting TCD's other than the bank.

The Commissioner replied when this law was written, there probably was not any credit union in Guam, so when they wrote the law it probably said bank.

If they pay their fair share of taxes then fine you can put them in the credit union, if not do not pay taxes so do not put them in there. Were not even allowed to regulate them and cannot charge those fees through the ATM's.

It is on the record that the office of the commissioners sends some memorandums to all government agencies to stop depositing to the credit unions but the autonomous agencies requested to send it over to the Attorney General.



#### 4. Patient Protection Affordable Care Act-Health Insurance:

The U.S Territories were given the implementation of the Affordable Care Act. In summary, the ACA to be successful on the implementation must include not only Market reforms but also individual mandates. Every person who is a resident or citizen of Guam who has the capacity to pay and buy health insurance should buy insurance. Employer mandates, which require employers to get health insurance for their employees otherwise they will pay penalties. Of all the important provisions of the ACA, the two mandates are individual mandates; employer mandates were not made applicable to the territories. The NAIC formed the sub group because the territories were complaining that there were not any sufficient subsidies given. There were series of conference calls and this is the product end.

Without federal subsidizes, without Individual mandates, without employer mandates, there will be tendencies for the health insurance premiums either in the large or in small groups to go up. They will carry the burden of all those who are not insured. When those who are not insured will have some existing medical condition and they will take advantage of the system. It is just as if somebody making an analogy were going to get ourselves insurance when the fire is already there. This exposes the insurance companies and the insured to greater losses and into higher premiums without a bigger premium base. Therefore, this what it is going to boil down to? It is probably difficult to get any health assistance from the U.S. Congress right now, or some form of relief from HSS. In the event, there is no relief from the US Government and the HSS, the only other avenue is for the local legislature to enact individual mandate and the employer mandate. We are giving it to the board members for information maybe later on the board might want to develop and propose policy.

(Commissioner)

The OBAMA ACT is fragment in application to the territories. In a conference call with Health and Human services, Guam is going to oppose the law to health insurance providers to pay 2% of premiums they collect. The federal government is going to enforce this law. Also for each member of the insured, you, your spouse, husband, children, are going to be assessed \$2 dollars each, collected by the federal government. These taxes take way from the island. The commissioners formed a sub-group of territories. The position paper will be presented for round table of Insurance Commissioners to take place in December 2013.

Part of the issue is a million dollar grant to Guam and the territories has a requirement for Guam and the territories to put up the Exchange. The states have a bigger and greater amount. The Exchange is similar to the exchanges like a stock market. Individuals who are not insured can go into the exchange and who want to participate and join to get coverage. The problem is they gave us a million dollars grant to do a study, if you do not put up the Exchange; you have to pay back the million dollars.

The cost of the exchange is about \$50 million. This exchange will communicate with Revenue and Tax to see if you qualify for Medicaid and if you are qualified, you will be sent to Medicaid. The exchange will also communicate with Homeland Security, to see if you are a U.S. citizen or a resident and that you can claim a credit for advance premium for credit. The advance premium tax credit is estimated about \$74 million for Guam. The resources that the Federal Government gave was \$925 million dollars to Puerto Rico and the four (4) territories split up the rest to about \$75 million for five (5) years. Guam will get \$24 million for five (5) years but will have to put 74 million dollars yearly. This is allowable in the Guam Territorial Income Tax Law. We could or may be face with another lawsuit if the advance premium tax credit is not paid out. We will be in trouble with the Obamacare.

Also with the Obamacare, certain things that are given to the insured, like transplant, blood transfusion, all this is covered now and who is going to pay for the insured. All those that are uninsured, will come out and ask to be insured. With all those people who are healthy, do not need insurance and will not get insurance until they are sick. The mandatory individual mandate is for us to get everybody insured so we can get some cash coming in from these people who are healthy. I hope that that the NAIC looks into this matter with the Territories and tells Congress, because we have a none voting delegate, we do not vote.

(JCarlos)

During the conversation with the territories, the representatives from the Virgin Island requested that at least all of the other states to help the territories because all of our territorial delegates are none voting; the Virgin Island delegate requested that assistance be given by the other states in order to assist the territories.

(Commissioner)

This is just for information. The Insurance companies expect to have a 35 to 55% increases in our health insurance rates based on what they have to pay out.

(JCarlos)

Provision for transplants, and other health benefits will start whenever a new policy is issued starting 2014 or when your policy is renewed in 2014. It should contain those new benefits including transplant that is why it is going to become more costly.

There will be lifetime dollar limits on the essential health benefits. Insurance companies have this medical loss ratios, 85% what they collect must be use for insurance, health claims and 15% goes to administrative cost and their profits. Guam has only four (4) health insurance companies, if there is no profits for the insurance then they are going to pull out and we are going end up with no insurance.

How much is the penalty that an individual must pay if they do not buy insurance?

A maximum amount starting in 2014 would be at \$285 for a family. It increases in later years it gets higher and higher. Penalty is not applicable to Guam. Employer mandate and individual mandate are not applicable to Guam. The pre-existing condition is applicable. This has to balance out by the penalty coming from individual and the small employers. Big employers are ready insuring their employees.

#### **5. Oceanic Bank**

First National Bank of Northern California purchased Oceanic Bank. The branch was closed effective June 30, 2013. No discussion.

#### **6. Allied Bank-(JCarlos)**

Handouts were given regarding the asset loans and receivables, deposit liabilities and the capital of Allied Bank and Philippine National Bank individually. We have computed liquid ratios. Is this in pesos? Yes. Allied Bank assets of 197,777,203,000 billion pesos are converted to \$4,819,133,000. The assets of PNB are 331,006,539.000 pesos converted to \$8,065,461.000 U.S. dollars.

The foreign bank is not allowed to take deposits. The only deposit they can take if they have somebody that has a loan with Allied Bank. You can only deposit to the matching of what is owed, cannot exceed to what is owed, so there is no exposure as far as FDIC concern and plus they have a deposit with the Commissioner of \$525,000. There is no exposure as far as the territory in terms of deposit. They are lending out their own money.

Mark Fish inquired if he wanted to buy a car/condo in the Philippines, it had PNB finance it in the Philippines, pay my loans here but would you take Guam collateral here or is that allowed, does your registration in Guam allow you take Guam collateral as guarantee as purchase made in the Philippines.

Angel Bautista of Allied Bank provided the answer that consumer loan, total housing loan, is processed in the head office. The collateral should be in the Philippines. Allied will not make a loan in the Philippines' while the secured assets are only here in Guam.

#### **New Business:**

1. Antonita Camacho is retired. Maybe replaced by somebody within the Bank. We wait for the official communication from the Bank of Hawaii. Declare the position vacant. Commissioner will ask the Governor to open up the appointment.

The Bank of Hawaii Branches located at Payless Yigo and Payless at Micronesia Mall were closed effective August 31, 2013. The automated teller machines will remain in place to serve customers.

2. A research of the issue that this bank brought up pursuant to the Uniform Consumer Credit Code (UCCC). There could be an overcharge in the same manner that American Express did some refund to some credit card holders. We are not sure whether American Express did it with in accordance with some state law or accordance with some federal statutes.

We have research this matter; look into our Uniform Consumer Credit Code (UCCC). If there, is an overcharging; compute the overcharging from 2 years from the date from last entry, but when is the date of last entry. There is no provision from our Guam banking code. We looked at the National Bank Act and it says a period of 2 years from the date when the transaction occurred. That is the look back period as far as the National Bank Act. How will it apply to Guam banks? We should look at forming on a committee of bankers to look into this matter. A bank made the inquiry verbally. The Board agreed to act on this matter with the banks inquiry if it were made in writing.

3. One consumer is saying that he has a credit card and bought food in a convenience store. The convenience store refused to accept the credit card. The consumer asks why the store refused the credit card.

Visa, Master card rules, charges a network fee. Merchants pay a fee to credit card companies. If the purchase is small, the merchant will pay a minimum credit card fee. The acceptance of the credit card for a small purchase may result to a loss for the merchant.

Meeting adjourned at 3:10 pm

Next meeting will be on November 14, 2013



Dipattamenton Kontribusion yan Adu'ana

DEPARTMENT OF

**REVENUE AND TAXATION**

GOVERNMENT OF GUAM

Gubetnamenton Guahan

EDDIE BAZA CALVO, Governor / Moga'lahi  
RAY TENORIO, Lt. Governor / Tiñente Gubelnadot

JOHN P. CAMACHO, Director  
Direktot  
MARIE M. BENITO, Deputy Director  
Segundo Direktot

ATTENDANCE SHEET  
THE BANKING AND INSURANCE BOARD MEETING

DIRECTOR'S CONFERENCE ROOM  
September 05, 2013

NAME	TIME IN	CONTACT NUMBER	SIGNATURE
Artemio B. Ilagan, Banking & Insurance Commissioner	1:50		
Edelfrida A. Ada	1:41	727-7380	
Danilo Rapadas	2:00	472-5250	
William W. Cassidy	2:05 PM	727-3214	
Mark O. Fish	1:50 pm	488-3474	
Dave Silva	2:05 PM	777-2608	
Antonita S. Camacho			
Rose Fejeran	2:05	475-1204	
Cesar Garcia	1:42	482-0648	

*New of Enid*

DEPARTMENT OF REVENUE AND TAXATION  
BANKING AND INSURANCE COMMISSIONER  
REGULATIONS UNDER THE  
GUAM SECURE AND FAIR ENFORCEMENT  
FOR MORTGAGE LICENSING ACT OF 2010  
EFFECTIVE: Upon Approval of Banking and Insurance Board

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§ 3101. Definitions.

The following terms used in these rules shall have the following meanings unless the context otherwise indicates:

(a) “Guam SAFE Act” means the Guam Secure and Fair Enforcement for Mortgage Licensing Act of 2010.

(b) “Call report” or “NMLS Mortgage Call Report” means a report of condition of a mortgage loan originator either as a company (e.g. corporation, limited liability company, etc) or as a sole proprietor and its operations including financial statements and production activity volumes, as required by NMLS.

(c) “Commissioner” means the Banking and Insurance Commissioner of Guam.

(d) “Department” means the Department of Revenue and Taxation.

(e) “NMLS Company Form” means the universal licensing form used by companies and sole proprietors to apply for and maintain any non-depository, financial services license authority with a state agency participating on NMLS. In accordance with state law, applicants may be required to have certain persons (e.g. Owners, Branch Managers, etc.) complete an NMLS Individual Form to be submitted along with NMLS Company Form.

(f) “Business Activities Definitions” means the NMLS definitions of various financial business activities (e.g. First mortgage lending, Second mortgage lending, etc.).

(g) “NMLS Branch Form” means the universal licensing form used by companies to apply for and maintain branch license(s) for any non-depository, financial services license authority if required by a state agency participating on NMLS. In accordance with state law, applicants may be required to have certain persons (i.e. Branch Managers) complete an NMLS Individual Form to be submitted along with the NMLS Branch Form.



(h) "NMLS Individual Form" means the uniform licensing form developed by the NMLS for an individual mortgage loan originator license or registration, entitled "Uniform Individual Mortgage License/Registration & Consent Form."

(i) "NMLS" means the Nationwide Mortgage Licensing System and Registry.

(j) "Sponsoring" or "to sponsor" means to maintain an employment relationship between a company mortgage loan originator (which can be either a company or a sole proprietor) and a mortgage loan originator where the mortgage loan origination activities of the mortgage loan originator are subject to the supervision and oversight of the company mortgage loan originator. A company mortgage loan originator is the "sponsor" of a mortgage loan originator employed by, and subject to the supervision and oversight of, the company mortgage loan originator. For purposes of these rules, an employment relationship may be established through factors such as supervision and control of the sponsored mortgage loan originator, legal and regulatory responsibility for the acts of the mortgage loan originator, and performance under the name, authority and policies of the sponsor, and is not necessarily contingent on whether a mortgage loan originator is issued a Form W-2 by the sponsor.

#### §3102. Electronic Filings

(a) DESIGNATION: The Commissioner designates the NMLS owned and operated by the State Regulatory Registry LLC (SRR), a wholly-owned subsidiary of the Conference of State Bank Supervisors, in cooperation with the American Association of Residential Mortgage Regulators (AARMR) to receive and store filings, obtain fingerprints, obtain credit reports, and collect related fees from applicants of mortgage loan originators on behalf of the Commissioner.

(b) USE OF NMLS: All mortgage loan originator applications, amendments, reports, notices, related filings, renewals, authorizations, and fees required to be filed with the Commissioner shall be filed electronically with and transmitted to NMLS, except as otherwise indicated in Section 3102(b)(4) of this rule. The following conditions relate to such electronic filings:

(1) Electronic Signature: When a signature or signatures are required by the particular instructions of any filing, including any attestation to be made through NMLS, a duly authorized officer of the applicant or the applicant him or herself, as required, shall affix his or her electronic signature to the filing by typing his or her name in the appropriate field and submitting the filing to the Commissioner through NMLS. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individual making the filing.

(2) When filed: Solely for purposes of a filing made through NMLS, unless otherwise specified, a document is considered filed with the Commissioner when all fees are received and the filing is transmitted by NMLS to the Commissioner.

(3) An applicant shall provide through NMLS the necessary authorizations so that NMLS may obtain independent credit reports, fingerprinting and criminal background checks.

(4) Any documents required to be filed with the Commissioner that is not permitted to be filed with or cannot be transmitted through NMLS shall be filed in paper directly with the Commissioner.

§ 3103. Notice of Officers, Directors, Partners, “Control” Persons, Managers, Members, Trustees and Employees.

(a) The notice to accompany the filing of an individual's fingerprints required in the following circumstances shall be made on the form required by the NMLS or other entities designated by the NMLS.

(1) In compliance with the requirements for a license application pursuant to 18 GCA Section 36305 (d) of the Guam SAFE Act;

(2) In the event an officer, director, partner, shareholder owns, acquires control of 10 percent or more of the ownership interests or trustee of a mortgage loan originator whose office, employment, ownership interest or other participation including change of control in the mortgage loan originator or the employer that employs or has an exclusive agency agreement with the mortgage loan originator; or

(3) In the event an employee or an individual is given the authority to access or responsibility for trust funds held by a mortgage loan originator, and is employed by such licensee.

(4) For purposes of this section, an individual who has submitted fingerprints through NMLS as part of the application for a mortgage loan originator license is not required to submit an additional set of fingerprints under this rule.

§ 3104. Officers, Directors, Partners, and Other Persons: Maintenance of Current List with Commissioner: Information Required.

(a) A mortgage loan originator shall at all times maintain on file with NMLS in accordance with its procedures for transmission to the Commissioner, a current list of officers, directors, and partners in the case of a partnership, and other persons named in the NMLS Company Form, NMLS Branch Form and NMLS Individual Form as applicable. In the event of any change in the officers, directors, partners, or other persons named in the application, other than transfers between branch offices, a mortgage loan originator shall file with NMLS in accordance with its procedures for transmission to the Commissioner, an amendment to the application containing the same information in relation to such new person(s) as is required in the NMLS Company Form, NMLS Branch Form and NMLS Individual Form.

#### § 3105. License Application for Mortgage Loan Originator and Application Fees

The procedures set forth in this section are applicable to a person who is required to be licensed pursuant to 18 GCA Section 36304 of the Guam SAFE Act as a residential mortgage loan originator. The application for a license as a residential mortgage loan originator shall be filed as follows:

(a) INITIAL APPLICATION: The application for a license as a mortgage loan originator under 18 GCA Section 36305 of the Guam SAFE Act and any amendment to such application shall be filed upon NMLS Company Form and any exhibits, in accordance with the instructions of NMLS for transmission to the Commissioner. Exhibits that cannot be submitted through NMLS shall be submitted directly to the Commissioner. The notices set forth in Section 3114 of these rules are part of every application. An applicant shall provide the following information, exhibits and documentation in the manner provided:

(1) An applicant shall identify all fictitious business names or other trade names on NMLS Company Form.

(A) For each fictitious business name or other trade name an applicant shall submit directly to the Commissioner a Fictitious Business Name Statement or other trade name bearing the seal of the Director of the Department.

(B) An applicant may not use a fictitious business name or other trade names until the Commissioner approves the use of the name. An applicant may not permit a mortgage loan originator sponsored by an applicant or a branch office to use any name not approved by the Commissioner.

(C) Every applicant and licensee shall comply with the rules governing the filing of a fictitious business name set forth in 18 GCA Section 26101 et seq.

(2) For every additional business location, an applicant shall submit through NMLS a NMLS Branch Form in accordance with Section {3107 (a)} of these rules.

(3) An applicant shall provide the names, personal history, and experience of individual applicants, officers, directors, managing members (in the case of a limited liability company), general and managing partners (in the case of a partnership), and control persons (both direct and indirect for other business entities) of the applicant that are listed in the Section for "Direct Owners and Executive Officers" of the NMLS Company Form with the NMLS by using the NMLS Individual Form..

(A) The named individuals shall provide authorization for, and subsequent delivery of, fingerprints to NMLS.

B) An applicant shall pay all fees required for the criminal history background check.

(4) An applicant shall submit through NMLS as an exhibit to NMLS Individual Form an audited financial statements with an unqualified opinion prepared by an independent certified public accountant in accordance with generally accepted accounting principles and acceptable to the Commissioner. The audited financial statements shall be prepared as of the applicant's most recent fiscal year end, or a more recent date, and must document a minimum tangible net worth of \$250,000.

(a) In accordance with the Guam SAFE Act §36315(a), in the event the applicant for mortgage loan originator is an employee or an exclusive agent of a person that is subject to the Guam SAFE Act, the net worth of such person subject to this Guam SAFE Act can be used in lieu of the mortgage loan originator's net worth requirement.

(5) An applicant shall submit directly to the Commissioner an Applicant's Authorization to Disclose Information hereby incorporated by reference, and maintain a copy in the applicant's books and records as provided in Section 36317 of the Guam SAFE Act. This authorization is effective as of the date of execution and shall remain effective until five years after the surrender or revocation of the residential mortgage lender. The authorization may not be revoked.

(6) In addition to the identification of business activities requested on the NMLS Company Form an applicant shall submit a detailed description of the applicant's business activities directly to the Commissioner. If an applicant is a member, an affiliate, a subsidiary or a parent company under common control the applicant must also submit an organizational chart.

7) An applicant shall submit directly to the Commissioner evidence of surety bond in accordance with Section 3123 of these rules.

(8) If an applicant intends to engage in any activities not specified in the Business Activities Section of NMLS Company Form, the applicant shall submit this information directly to the Commissioner.

(9) Business entities shall submit the following documents directly to the Commissioner:

(A) A corporate applicant shall submit an original certificate of qualification or good standing from the Director of the Department of Revenue and Taxation executed not more than sixty days before the filing of the application. The certificate must show that the applicant is authorized to transact business in Guam.

(B) A foreign corporation shall submit an original certificate of qualification or good standing from the Secretary of State of the state of incorporation executed not more than 60 days before the filing of the application, showing that the applicant is authorized to transact business in that state.

(C) A partnership applicant shall submit its partnership agreement.

(D) A limited partnership or limited liability company applicant shall submit an original certificate of qualification or good standing from the Director of the Department of Revenue and Taxation executed not more than sixty days before the filing of the application, showing that the applicant is authorized to transact business in Guam.

(E) A foreign limited partnership or limited liability company applicant shall submit an original certificate of qualification or good standing from the Secretary of State of the state of formation executed not more than sixty days before the filing of the application, showing that the applicant is authorized to transact business in that state.

(10) An applicant shall submit directly to the Commissioner evidence of federal agency approval for the applicant to engage in business as a lender or servicer of federally related mortgage loans, in accordance with Section 36303(n) of the Guam SAFE Act.

(11) Every applicant shall provide a resident/ registered agent for service of process in item 4 of the NMLS Company Form. The resident/registered agent must be located within the Island of Guam.

(12) An applicant shall provide its website information through NMLS on the NMLS Company Form.

(b) FILING FEES: The fees payable include fees required by the NMLS, the Federal Bureau of Investigation, any other party for the processing of criminal history for background checks, credit reports, testing, education, or any other licensure requirement under the Guam SAFE Act. All fees shall be paid through NMLS for transmission to the Commissioner. All fees are not refundable.

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The following fees shall be paid by each applicant for each of the following licenses:

<b>§3105(b)(1) Company Mortgage Loan Originator Fees</b>		
New License	Application/License/Registration Fee	\$500.00
New License	Investigation Fee	\$100.00
License Transition	License/Registration Transition Fee	\$100.00
Company Amendment	Main Address Amendment Fee	\$100.00
Company Amendment	Legal Name Amendment Fee	\$100.00
Company Amendment	Other Trade Names Amendment Fee	\$100.00
Company Amendment	Qualifying Individual Amendment Fee	\$100.00
Renewal Fee	License Registration/Renewal fee	\$500.00
Reinstatement Fee	License Registration Reinstatement Fee	\$600.00
New License	NMLS Processing Fee	\$100.00
License/Registration Transition Fee	NMLS Processing Fee	\$100.00
Renewal Fee	NMLS Annual Processing Fee	\$100.00

<b>§3105(b)(2) Company Mortgage Loan Originator Branch Fees</b>		
New License	Application/License/Registration Fee	\$500.00
New License	Investigation Fee	\$100.00
License Transition	License/Registration Transition Fee	\$100.00
Company Amendment	Physical Address Amendment Fee	\$100.00
Company Amendment	Other Trade Name Amendment Fee	\$100.00
Company Amendment	Branch Manager Amendment Fee	\$100.00
Renewal Fee	License Registration Renewal Fee	\$500.00
Reinstatement Fee	License Registration Reinstatement Fee	\$600.00
New License	NMLS Processing Fee	\$100.00
License/Registration Transition Fee	NMLS Processing Fee	\$100.00
Renewal Fee	NMLS Processing Fee	\$100.00
<b>§3105(b)(3) Individual Mortgage Loan Originator Fees</b>		
New License	Application/License/Registration Fee	\$100.00
New License	Investigation Fee	\$100.00
License Transition	License/Registration Transition Fee	\$100.00
Individual Form Amendment	Sponsorship Fee	\$50.00
Renewal Fee	License/Registration Renewal Fee	\$100.00
Reinstatement Fee	License/Registration Reinstatement Fee	\$200.00
New License	NMLS Processing Fee	\$30.00
License/Registration Transition Fee	NMLS Processing Fee	\$30.00
Renewal Fee	NMLS Processing Fee	\$30.00
Sponsorship Fee	NMLS Processing Fee	\$30.00
Criminal Background Check	CBC Processing Fee	\$39.00
Credit Report	Credit Report Processing Fee	\$15.00

(c) COMPLETION OF FILING AND ISSUANCE OF LICENSE: An application for licensure as a mortgage loan originator is not deemed complete until all required fees, all required submissions, and all background and investigative reports are received by the Commissioner. The filing of NMLS Company Form with NMLS does not constitute automatic approval of a license. The applicant for residential mortgage loan originator shall not consider the application approved until it is approved by the Commissioner and a license is issued to the applicant. In accordance with Section 3108 (e) of these rules, the NMLS Company Form application may be considered withdrawn if the Commissioner does not receive the requested information contained in the notification of a deficiency within 90 days of the notification.

(d) FILING AN AMENDMENT: In the event of a change to the information in the application, or exhibits thereto, the mortgage loan originator applicant or licensee shall file an amendment to the NMLS Company Form, NMLS Branch Form or NMLS Individual Form through NMLS in accordance with the procedures in Section 3116 of these rules. Prior to the issuance of a license, any amendment to an application shall be filed within five (5) days. Any change that cannot be reported through NMLS shall be reported directly to the Commissioner.

#### §3106 Mortgage Loan Originator License Not Required:

A residential mortgage loan originator license is not required for:

(1) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, *unless* the attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator.

(2) An owner of real property who in any twelve (12) consecutive month period makes no more than five (5) mortgage loans to purchasers of the property for all or part of the purchase price of the real estate against which the mortgage is secured.

§ 3107. Branch Office Instructions for Mortgage Loan Originator

(a) A licensed mortgage loan originator that seeks to engage in business at an additional location must submit an application for a branch office by submitting NMLS Branch Form in accordance with the instructions of NMLS for transmission to the Commissioner at least ten days (10) before engaging in business at the location.

(b) An applicant that intends to conduct business at the branch office under a fictitious business name not already approved by the Commissioner shall submit a copy of the Fictitious Business Name Statement with the “filed stamp” from the office of the Department of Revenue and Taxation and may not use the name until the Commissioner approves the use of the name.

(c) An applicant for a branch office shall state the name of the branch manager for each branch location on the NMLS Branch Form and submit to the NMLS a NMLS Individual Form for each branch manager.

(d) The Commissioner may request additional information, documentation or detail pertaining to the branch office application be filed directly with the Commissioner.

(e) The application, investigation, and criminal history background check fees shall be paid by the applicant or licensee to the NMLS for transmission to the Commissioner. All fees are not refundable.

§ 3108. Mortgage Loan Originator Application Procedures.

(a) ESTABLISHING A RELATIONSHIP IN NMLS: A company mortgage loan originator shall sponsor in the NMLS each individual mortgage loan originator employed by the company. To sponsor a mortgage loan originator, a company mortgage loan originator must:

(1) Obtain a unique identifier through NMLS,

(2) Obtain for its records, evidence that each mortgage loan originator meets the qualification requirements of Sections 36306, 36307, and 36308 of the Guam SAFE Act or is exempted from such qualification requirements pursuant to Section 36304 (c) of the Guam SAFE Act, and

(3) Ascertain (by investigation) the character, business reputation and experience of any individual mortgage loan originator, prior to executing any transaction on behalf of the company mortgage loan originator. Evidence of compliance with this paragraph shall be maintained as a part of the records of the licensee as required by Section 36317 of the Guam SAFE Act and 3107 (b) of these rules.

(b) Upon the employment of an individual as a mortgage loan originator, a company mortgage loan originator shall ensure that the individual mortgage loan originator files the NMLS Individual Form with the NMLS for submission to the Commissioner and obtains a mortgage loan originator license. The notices set forth in Section 3113 (a); (b); and (c) of these rules are part of every mortgage loan originator application.

(c) A mortgage loan originator sponsorship is not approved until the Commissioner approves the sponsorship and issues the mortgage loan originator a license. A sponsorship will not be approved until the sponsoring company mortgage loan originator has obtained a license through NMLS.

d) A mortgage loan originator applicant must complete all license requirements, including, but not limited to the payment of all required fees prior to filing the application with the NMLS for transmittal to the Commissioner. The fees for an application as a mortgage loan originator are set forth in Sections 3105 (b)(1); through (b)(3) of these rules. These fees shall be paid through NMLS for transmission to the Commissioner and include the processing fees by NMLS, the Federal Bureau of Investigation, or any other party for the processing of criminal history background checks, credit reports, testing, education, or any other licensure requirement under the Act.

(e) The NMLS Individual Form application may be considered withdrawn if the Commissioner does not receive the requested information contained in the written notification of a deficiency within 90 days of the notification.

(f) In accordance with Section 36318 (f) of the Guam SAFE Act, a company mortgage loan originator shall not permit an individual mortgage loan originator whose license or license sponsorship has lapsed, or whose license sponsorship is not in effect, to engage in activities of a mortgage loan originator unless the individual mortgage loan originator's license has been reinstated pursuant to the procedures set forth in Section 3112 of these rules.

(g) A company mortgage loan originator shall require every sponsored individual mortgage loan originator to file an amendment to his or her NMLS Individual Form through NMLS within twenty (20) days of any change to the information contained in the NMLS Individual Form..

(h) A mortgage loan originator may not engage in business under any name other than a name approved by the Commissioner for use by the sponsor of the mortgage loan originator.

(i) A company mortgage loan originator shall be responsible for the acts, practices, and conduct of its sponsored mortgage loan originator in connection with the making, servicing, or origination of residential mortgage loans until such time that the sponsorship of the mortgage loan originator is terminated through the NMLS. Termination procedures shall be as follows:

(1) A company mortgage loan originator shall terminate the sponsorship of an individual mortgage loan originator through the NMLS within fifteen (15) days after the termination of an individual, and shall clearly state the reason(s) for termination.

(2) A company mortgage loan originator shall file an amendment to NMLS Individual Form to terminate a relationship with a residential mortgage lender within 15 days of the termination. A company mortgage loan originator may not originate loans under the authority of the Guam SAFE Act unless he or she has a valid license and the mortgage loan originator has a sponsorship approved by the Commissioner.

(j) PROCEDURES FOR A SOLE PROPRIETOR MORTGAGE LOAN ORIGINATOR:

A sole proprietor mortgage loan originator must:

(1) File NMLS Company Form and obtain a license as a company mortgage loan originator and

(2) File a NMLS Individual Form and obtain a license as a mortgage loan originator.

§ 3109. Qualifications of Mortgage Loan Originator Applicants.

Every applicant for a mortgage loan originator license shall meet the requirements of this section.

(a) QUALIFIED WRITTEN TEST: Every applicant for a mortgage loan originator license shall pass a qualified written test developed by the NMLS and administered by a test provider approved by the NMLS within one year prior to the date of filing the application for, or the issuance of, a mortgage loan originator license. The qualified written test shall consist of a national component and a Guam component. An applicant shall abide by the rules, policies and procedures of the NMLS in the administration of the test.

(b) EDUCATION: Every applicant for a residential mortgage loan originator license shall complete at least 20 hours of NMLS approved education including:

(1) Three hours of instruction on federal law and regulations,

(2) Three hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues, and

(3) Two hours of training related to lending standards for the nontraditional mortgage product marketplace.

§ 3110. Evidence of Financial Responsibility.

(a) The Commissioner's finding required by Section 36306 of the Guam SAFE Act relates to any matter, personal or professional, that may impact upon an applicant's



propensity to operate honestly, fairly, and efficiently when engaging in the role of a mortgage loan originator.

(b) An applicant for a mortgage loan originator license shall authorize NMLS to obtain the applicant's current credit report. The credit report will be used as needed to validate the applicant's responses to the electronic application form, in order to support the Commissioner's finding required by Section 36306 of the Guam SAFE Act.

(c) An applicant may be precluded from obtaining a mortgage loan originator license where his or her personal history includes:

(1) Any liens or judgments for fraud, misrepresentation, dishonest dealing, and/or mishandling of trust funds, or

(2) Other liens, judgments, or financial or professional conditions that indicate a pattern of dishonesty on the part of the applicant.

#### § 3111. Continuing Education and Renewal Procedures for Mortgage Loan Originators.

(a) A mortgage loan originator license shall be renewed on an annual basis between November 1 and December 31.

(b) A license not renewed during the specified time period shall be deemed a lapsed or expired license. A mortgage loan originator with a lapsed or expired license may not engage in business as a mortgage loan originator until the mortgage loan originator's license is reinstated pursuant to Section 3112 of these rules.

(c) To renew a license under subsection (a) of this rule, a licensed mortgage loan originator shall complete at least eight hours of NMLS approved continuing education on or before December 31<sup>st</sup> of every year, which shall include the following:

(1) Three hours of instruction on federal law and regulations,

(2) Three hours of ethics, which shall include instruction on fraud, consumer protection and fair lending issues, and

(3) Two hours of training related to lending standards for the nontraditional mortgage product marketplace.

§ 3112. Reinstatement of License as a Mortgage Loan Originator.

(a) A mortgage loan originator license that has not been renewed between November 1 and December 31 is a lapsed or expired license. A mortgage loan originator with a lapsed or expired license is not authorized to continue doing business as a mortgage loan originator unless his or her license is reinstated.

(b) A mortgage loan originator may reinstate an expired license if the following conditions are met:

(1) The mortgage loan originator must submit a request for reinstatement through NMLS after December 31 and before March 1 of the year immediately following the year the license expired.

(2) All continuing education courses and any other minimum requirements for the license renewal for the year in which the license expired must be completed before March 1 following the year the license expired.

(3) The mortgage loan originator must pay the applicable license renewal, reinstatement, and any late fees or penalties.

(4) The mortgage loan originator must continue to meet minimum standards for renewal in Section 36309 of the Guam SAFE Act.

(c) If a mortgage loan originator whose license has expired cannot meet the requirements for reinstatement specified in this section or submits a reinstatement filing on or after March 1, the mortgage loan originator must apply for a new license and meet the requirements for licensure in effect at that time.

§ 3113. Supervision of Mortgage Loan Originators.

(a) Every company mortgage loan originator shall exercise diligent supervision over the mortgage loan origination, lending and servicing activities of every mortgage loan originator that it sponsors.

(b) Every mortgage loan originator employed by a company mortgage loan originator shall be subject to the supervision of a manager designated by such company mortgage loan originator. Every manager shall be identified on NMLS Branch Form, and shall submit a NMLS Individual Form to NMLS.

(c) Every company mortgage loan originator shall establish, maintain, and enforce written procedures, a copy of which shall be kept in each business office that set forth the procedures adopted by the company mortgage loan originator to comply with the duties imposed by this section.

(d) Every company mortgage loan originator shall designate a Supervisor, an individual, who shall:

(1) Supervise and periodically review the activities of the managers designated pursuant to subsection (b) of this section;

(2) Periodically inspect each business office of the company mortgage loan originator to ensure that the written procedures are enforced.

(3) In the event a company mortgage loan originator does not have any branches offices, the Supervisor shall directly supervise and review the activities of the individual mortgage loan originators.

(e) The Supervisor shall be identified on the NMLS Company Form Section for “Qualifying Individual” and shall submit a NMLS Individual Form.. For purposes of this section, a qualifying individual is a person in charge and responsible for the actions of the company mortgage loan originator.

#### Section 3114. Statement of Citizenship, Alienage, and Immigration Status.

Any applicant for mortgage loan originator who is applying for any license under the Guam SAFE Act shall file the Statement of Citizenship, Alienage, and Immigration Status and any accompanying documentation directly with the Commissioner.

#### § 3115. Notices Included with Applications.

The following notices required by state and federal law are hereby provided for those completing an application for a mortgage loan originator license in Section 3105 of these rules and an application for a mortgage loan originator license for a branch office in Section 3107 of these rules:

#### NOTICES REQUIRED UNDER STATE AND FEDERAL LAW

(Social Security Number Confidentiality Act, 5 GCA Section 32701 et seq.)

(a) The Banking and Insurance Commissioner is requesting the information specified in the NMLS Company Form, application for licensure of company or sole proprietor mortgage loan originators and NMLS Individual Form, as part of the application for licensure of mortgage loan originators.

(b) Any public entity or private entity is not prevented from using a Social Security Number for internal verification and administrative purposes, so long as the use does not result in, or require the release of the Social Security Number to persons not designated by the entity to perform associated functions authorized by law. ( 5 GCA Section 32705).

(c) The submission of all items of information is mandatory unless otherwise noted. 5 GCA Section 32705 allows a public entity to collect and use social security numbers from all applicants for internal verification and administrative purposes, so long as the use does not result in, or require the release of, the Social Security Number to persons not designated by the entity to perform associated functions authorized by law. The Privacy Act of 1974 prohibits a state agency from denying an individual any right, benefit or privilege provided by law because of the individual's refusal to disclose the individual's social security account number.

(d) The failure or refusal of an applicant for mortgage loan originator license or an individual that is sponsored by mortgage loan originator to provide all or any part of the information requested including a social security number may preclude the Banking and Insurance Commissioner from approving the application.

(e) The principal purposes for which the information will be used by the Banking and Insurance Commissioner are to determine whether:

(1) a license, registration, or other authority, as allowed under the law, should be accepted, granted, approved, denied, revoked or limited in any way;

(2) business entities or individuals licensed or otherwise regulated by the Banking and Insurance Commissioner are conducting themselves in accordance with applicable laws; and/or

(3) laws administered by the Banking and Insurance Commissioner are being or have been violated and whether administrative action, civil action, or referral to appropriate federal, state or local law enforcement or regulatory agencies, as authorized by law, is appropriate.

(f) Any known or foreseeable disclosures of the information pursuant to 5 GCA Section 32705 and may include transfer of information to other federal, state, or local law enforcement or regulatory agencies as authorized by law.

(g) The Sunshine Reform Act of 1999, (5 GCA , Chapter 10) grants an individual a right to access his or her own personal information that is maintained by the Department of Revenue and Taxation.

#### FEDERAL PRIVACY ACT OF 1974 (Public Law 93-579)

In accordance with Section 7 of the Privacy Act of 1974 (found at 5 U.S.C. § 552a note (Disclosure of Social Security Number)), the following is information on whether the disclosure of a social security account number is voluntary or mandatory, by what statutory or other authority such number is solicited, and what uses will be made of it.

(1) Section 36305 of the SAFE Act requires the Banking and Insurance Commissioner to do background checks and obtain independent credit report for any individual applicant for residential mortgage loan originator. The disclosure of a Social Security Number to the Banking Commissioner through the NMLS is required in order to do a background check and obtain an independent credit report on an individual applicant for residential loan mortgage originator. The Privacy Act of 1974 prohibits a state agency from

denying an individual any right, benefit or privilege provided by law because of the individual's refusal to disclose the individual's social security account number.

(2) A social security account number is solicited pursuant to one or more of the following authorities: Sections 36305 of the Act and 5 GCA Section 32705.

(3) For all persons disclosing a social security account number, the number may be used, in addition to other information provided, to conduct a background investigation of the individual by federal, state or local law enforcement agencies, as authorized by law. The social security number may also be used to respond to requests for this number made by child support agencies.

#### § 3116. Notice of Changes by Mortgage Loan Originator.

(a) Each licensed mortgage loan originator shall, upon any change in the information contained in its application for license (other than financial information contained therein), promptly file an amendment to such application setting forth the changed information.

(b) A licensed company mortgage loan originator shall file changed information contained in its NMLS Company Form, NMLS Branch Form and NMLS Individual Form and any exhibits thereto, through NMLS in accordance with its procedures for transmission to the Commissioner. Any change that cannot be submitted through NMLS shall be filed directly with the Commissioner.

(c) A mortgage loan originator shall file changed information contained in his or her NMLS Individual Form and any exhibits thereto, through NMLS in accordance with its procedures for transmission to the Commissioner within twenty (20) days of changes to the information. Any change that cannot be submitted through NMLS shall be filed directly with

the Commissioner. A mortgage loan originator may not renew his or her license under Section 3111 of these rules until all changes to the information contained in his or her NMLS Individual Form are filed with the Commissioner as provided in this section.

(d) A licensed company mortgage loan originator shall notify the Commissioner of the employment of any new mortgage loan originator in Guam and of the termination of employment of any mortgage loan originator in Guam by filing with the NMLS the NMLS Individual Form and in accordance with Section 3108 of these rules.

(e) If a company mortgage loan originator discovers that its mortgage loan originator has not filed an amendment to his or her NMLS Individual Form as required by subsection (c), the company mortgage loan originator shall require the sponsored mortgage loan originator to file the amendment immediately. If, within five (5) days from the demand, the sponsored mortgage loan originator has not made the changes, the company mortgage loan originator shall inform the Commissioner in writing.

#### § 3117. Effectiveness of Mortgage Loan Originator Licenses.

(a) A license as a mortgage loan originator under Section 36306 of the Guam SAFE Act continues in effect until it is revoked or suspended by the Commissioner, or surrendered by the mortgage loan originator and the surrender has been accepted by the Commissioner pursuant to Section 3120 of these rules.

(b) A license as a mortgage loan originator under Section 36306 of the Guam SAFE Act shall be renewed on an annual basis in accordance with Section 3111 of these rules.

#### § 3118. Challenge Process or Information Entered Into NMLS.



(a) If an applicant or licensee disputes the accuracy or completeness of any material information entered into and maintained by NMLS, the applicant or licensee may submit a written request to the Commissioner by hand delivery at 1240 Army Drive, Barrigada, Guam 96913 or by mail to P.O. Box 23607, GMF, Guam 96921.

(b) The request shall include the applicant or licensee's name, unique identifier, a statement of the alleged inaccuracy or incompleteness of the information entered into NMLS, and its materiality, and shall provide any proof or corroboration available, including copies of official documents or court orders that support the changes requested by the applicant.

(c) Upon receipt of the request, the Commissioner shall investigate the request, along with any information provided, and determine if the information entered into NMLS is correctly reflected.

(d) If the Commissioner determines that the information is materially incorrect, the Commissioner shall request that the NMLS record be corrected.

(e) If the Commissioner denies the allegations of material inaccuracy or incompleteness in the NMLS record, the Commissioner shall notify the licensee or applicant in writing.

(f) Within 30 days from the mailing or service of the notification, the person may request a hearing under the Administrative Adjudication Law 5 GCA (commencing with Section 9100 ) for a determination of whether material inaccuracy or incompleteness exists in the record.

(g) If a material inaccuracy or incompleteness is found in any record, within 30 days of notice of the finding the Commissioner shall request that NMLS correct the information.

(h) A request for judicial review of the decision shall be made pursuant to the Administrative Adjudication Law, 5 GCA Section 9240.

§ 3119. Shared Arrangements with Other Governmental Agencies: Confidentiality.

(a) For purposes of Section 36316 of the Act, the Commissioner is authorized to share any information or material that has been submitted to the NMLS to any governmental agency, including but not limited to, the Attorney General of Guam, the U.S. Department of Justice, the Federal Bureau of Investigation, state or federal regulatory agencies. The information or material that is shared with a governmental agency shall be accomplished without the loss of privilege or the loss of confidentiality protections provided by law.

(b) A mortgage loan originator applicant may request that certain documents, or parts thereof, be treated confidentially. A request for confidentiality shall be in writing. If a request for confidential treatment is granted or denied, the person making such request will be notified in writing.

§ 3120. Surrender of License as a Mortgage Loan Originator.

(a) An application to surrender a license as a mortgage loan originator shall be filed on NMLS Company Form, NMLS Branch Form or NMLS Individual Form through NMLS in

accordance with its procedures for transmission to the Commissioner. A licensed company mortgage loan originator shall amend every branch office application with NMLS Branch Form and terminate the sponsorship of all mortgage loan originators on NMLS Individual Form.

(b) Prior to surrendering its license, a licensed mortgage loan originator must file a plan for approval by the Commissioner. The plan shall contain the licensee's detailed proposal for the orderly closing out of its mortgage lending business. At a minimum, the plan shall contain the following:

(1) A detailed description of the plan to process to completion any loan applications pending which were received before the decision to surrender the license was made. In the alternative, the plan may describe the process for cancellation or completion of the loan by another licensee or exempt person.

(2) A detailed description of the plan to transfer the licensee's existing servicing portfolio, including the time frame within which the transfer will be completed.

(3) The time frame required for payout to another mortgage loan originator of all payments received from the borrowers, or the time frame required for transfer of payments received to another servicing licensee or exempt person.

#### § 3121. Prohibited Advertising.

(a) A mortgage loan originator shall not advertise that it or any of its officers, employees, or agents is "bonded," "supervised by," "regulated by," "audited by" or "examined by" the Island of Guam or any agency thereof.

(b) A mortgage loan originator shall refer to its licensure under the Guam SAFE Act in any written or printed communication or any communication by means of recorded telephone messages, telephonic or electronic media, or spoken on radio, television or similar communications media, only by the following statement: "Registered Mortgage Loan Originator".

§ 3122. "Blind" Advertising Prohibited.

A mortgage loan originator shall not use "blind" advertisements. "Blind" advertising is an advertisement used to solicit business that gives only a telephone number, post office or newspaper box number, or name other than that of the licensee.

§ 3123. Surety Bond.

Every licensee shall maintain a surety bond in accordance with Section 36314 of the Guam SAFE Act as follows:

(a) A registered mortgage loan originator that does not employ one or more mortgage loan originators shall post a surety bond in the amount of \$50,000.

(b) A registered mortgage loan originator that employs one or more mortgage loan originators shall post a surety bond based on the dollar amount of residential mortgage loans originated or serviced, or both, by that licensee and its mortgage loan originator employees in the first year and succeeding years, are as follows:

Aggregate Loans

Bond Amount

<u>First year</u>	<u>\$50,000</u>
<u>0 - \$10,000,001</u>	<u>\$ 50,000</u>
<u>\$10,000,001 - \$25,000,000</u>	<u>\$50,000</u>
<u>\$25,000,001 - \$50,000,000</u>	<u>\$75,000</u>
<u>Over \$50,000,000</u>	<u>\$100,000</u>

(c) An applicant for company mortgage loan originator shall procure the surety bond described above from an insurance company that is currently admitted or licensed to transact insurance business in Guam; and such insurance company that is accredited or listed with the United States Treasury.

(d) The surety bond shall secure the payment for:

(1) non-compliance with the provisions of the Guam SAFE Act and the regulations thereto; or

(2) violation of applicable laws on unfair, deceptive, and fraudulent practices committed in connection with the origination of residential real estate mortgage loans and in the servicing of such loans.

(e) The Commissioner shall upon determination and issuance of an order of non-compliance of the provisions of the Guam SAFE Act or violation of applicable laws on unfair, deceptive and fraudulent practices on residential mortgage loans originations either through an administrative proceedings or consent order pursuant to the Administrative Adjudication Law draw upon the surety bond in such amount equal to the assessment of penalty.

(f) Upon the assessment of penalty on the surety bond, the Commissioner shall order the mortgage loan originator to post a replacement surety bond in an amount required in Subsection (b) of this Section.

#### § 3124. Forms.

(a) The unique identifier of a licensed mortgage loan originator shall be clearly shown on all residential mortgage loan application forms, solicitations, or advertisements, including business cards or Internet Web sites, whether in paper, electronic, or any other format. The unique identifier number shall be so labeled and shall not be smaller than 8-point bold font.

#### § 3125. Fingerprinting of Certain Employees.

(a) If a licensee suffers a loss of trust funds as a result of the actions of an employee, as defined by Section 3103 (a)(3) of these rules and that employee is or was an individual prohibited from employment with a licensee under Section 36306 of the Guam SAFE Act, then the Department, at the discretion of the Commissioner, may undertake to obtain

(1) a Statement of Identity and Questionnaire, or similar report, including but not limited to the NMLS Company Form, NMLS Branch Form and NMLS Individual Form.

(2) notice under Section 3103 of these Rules, and

(3) fingerprints of all other such employees for the purpose of determining whether other prohibited individuals have been so employed by the licensee.

(b) A licensee shall cooperate fully with the Commissioner and the Department in complying with the requirement of subsection (a) of this Rule.

#### § 3126. Annual Report and Mortgage Call Report.

a) Pursuant to the provisions of Section 36317 (d) of the Guam SAFE Act, a mortgage loan originator shall submit an audited annual financial report and report of condition in accordance with generally accepted accounting principles ( GAAP) no later than 90 days after the end of the calendar\_or fiscal year, and in addition, shall file as the NMLS may require, the NMLS Mortgage Call Report required to be filed pursuant to Section 36319 of the Guam SAFE Act with NMLS for transmission to the Commissioner.

(b) Every mortgage loan originator shall ensure that all residential mortgage loans that close as a result of his or her loan origination activities are included in the mortgage call reports submitted to NMLS or the Commissioner by his or her sponsoring mortgage loan originator.

#### § 3127. Nontraditional, Adjustable Rate and Mortgage Loan Products.

(a) Best Practices. Every licensee or every mortgage loan originator shall implement best practices to manage loan product risk on a continuous basis. These best practices shall include practices set forth in the Guidance on Nontraditional Mortgage Product Risks

published by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, which is hereby incorporated by reference, and the Statement on Subprime Mortgage Lending published by the aforementioned entities and the National Association of Consumer Credit Administrators, which is hereby incorporated by reference. Both publications are collectively referred to herein as the "Guidance". A mortgage loan originator employed by a licensee shall follow the best practices policies and procedures developed by his or her employer. For purposes of this section, "best practices" shall mean lawful processes, policies, and procedures to manage risks associated with use of nontraditional mortgage products and adjustable rate mortgage products as defined and prescribed by the Guidance.

(b) Written Compliance Report. In a separate written document, submitted as an addendum to its annual financial report and report of condition required under Section 36317 of the Guam SAFE Act and by Section 3126 (b) of these Rules, every licensee or a mortgage loan originator shall state whether it made or arranged nontraditional mortgage products and adjustable rate mortgage products, as defined by the Guidance, during the reporting period covered by the annual report. If any such loans were made or arranged, the licensee or mortgage loan originator shall also explain how it has implemented best practices and explain whether and how it has put into effect the following internal controls or procedures during the reporting period: adopted processes, policies and procedures to ensure compliance with the Guidance; designated a compliance officer (including contact information of that officer) to ensure compliance with the Guidance; implemented a consumer complaint process to resolve consumer complaints involving loans covered by the Guidance; and educated employees and agents to help them understand how to apply the best practices. In addition, the licensee shall indicate the number of any consumer



complaints it received during the reporting period regarding loans that are subject to the Guidance, including the number of resolved complaints and unresolved complaints and the number of workout arrangements used for resolved complaints. For purposes of this section, "workout arrangement" shall mean a modified or converted loan product with predictable payment requirements to help the financially-stressed borrower.

(c) Books and Records. If the licensee or a mortgage loan originator receives any reportable consumer complaints described in subsection (b), the licensee or mortgage loan originator shall maintain for each complaint a copy of the complaint and the licensee's or mortgage loan originator's written response or explanation of how the company resolved the complaint including any workout arrangement, shall maintain this documentation as part of its books and records, and shall make the documentation available to the commissioner upon request. In addition, if the licensee reports any internal controls or procedures or nontraditional or adjustable rate loans described in subsection (b), the licensee or mortgage loan originator shall maintain documentation of those controls or procedures as part of its books and records, and any loan documentation required by law, and shall make the documentation available to the commissioner upon request.

(d) Loan Disclosures. Every licensee or every mortgage loan originator shall, within three business days after receipt of a completed application for a nontraditional loan or an adjustable rate loan that is subject to the Guidance, or before the borrower becomes obligated on the note, whichever is earlier, cause to be delivered to the borrower statements in writing disclosing, in a clear and conspicuous manner, information comparing payment scenarios and loan balance scenarios among any nontraditional loan and adjustable rate loan products offered by the finance company and that are subject to the Guidance. This information shall be provided by one of the following methods:

(1) The form entitled CSBS/AARMR Residential Mortgage Disclosure to provide information to the borrower, which is hereby incorporated by reference, or

(2) Any other form used by the licensee to compare payment scenarios and loan balance scenarios among any nontraditional loan and adjustable rate loan products that are subject to the Guidance; provided, however, that the form shall, at a minimum, (A) compare monthly payments and loan balances of these loan products offered by the licensee, and (B) reflect the borrower's proposed loan amount.

(e) Advertising Prohibitions. For purposes of Section 36318 of the Guam SAFE Act, the following are considered false, misleading, or deceptive advertising prohibited by that section for loans that are subject to the Guidance:

(1) Any advertisement of an installment in repayment of an adjustable rate, interest only or payment-option loan without an equally prominent disclosure of the following information about the loan as applicable:

(A) Principal amount

(B) Term of loan

(C) Initial interest rate

(D) Number of months the initial interest rate will be in effect

(E) Fully-indexed interest rate

(F) Maximum interest rate

(G) If different, an explanation of the difference between the payment rate, initial interest rate and fully-indexed rate

(H) Annual percentage rate

(I) How often the interest rate and payments can change

(J) Maximum periodic change in the interest rate and payments (periodic caps)

(K) Number of months and percentage of original loan amount after which minimum payments will not be accepted and the loan re-amortizes

(L) The monthly payment based on the maximum interest rate, and the loan balance after all negative amortization is included, assuming minimum payments are made

(M) If the loan contains a prepayment penalty, a statement to that effect

(N) If the loan contains a balloon payment, a statement to that effect

(2) Any advertisement that the licensee can arrange "low doc/no doc", "no income/no asset", "stated income", "stated asset", "no ratio" or similar loan products without a statement that these products may have a higher interest rate, more points or more fees than other products requiring documentation.

(f) This section applies to loans secured by residential real property located in Guam improved by a one-to-four family dwelling.

§ 3128. Report of Civil, Criminal or Disciplinary Action.

(a) A mortgage loan originator shall immediately report in writing to the Commissioner any civil, criminal or disciplinary action set forth in Section 36317 (a) (1) of the Guam SAFE Act, filed against a mortgage loan originator, or any of its officers, directors, partners, shareholders controlling 10 percent or more of the ownership interests, trustees or employees (employee is described in Section 3101 (j) of these Rules ) through the NMLS in accordance with its procedures for transmission to the Commissioner on NMLS Company Form, NMLS Branch Form and NMLS Individual Form. Any action that cannot be reported through NMLS shall be reported directly to the Commissioner.

(b) If a company mortgage loan originator finds that its mortgage loan originator has not filed an amendment to his or her NMLS Individual Form, the mortgage loan originator shall proceed as required in Section 3108(f) of these rules.

#### § 3129. Report of Defalcation.

A mortgage loan originator shall immediately report to the Commissioner any defalcation, embezzlement or theft made, or reasonably believed by the company to have been made, by any of its officers, directors, partners, shareholders controlling 10 percent or more of the ownership interests, trustees or employees (employee is described in Section 3101(j) of these Rules).

#### § 3130 SEVERABILITY

If any provision of these rules or its application to any person or circumstance is held invalid, the remainder of these rules or the application of the provision to other persons or circumstances is not affected.

**APPLICANT'S AUTHORIZATION TO DISCLOSE INFORMATION**

To: Banking and Insurance Commissioner

From: \_\_\_\_\_

1. I hereby authorize and request all persons to whom this request is presented having information related to or concerning applicant to furnish such information to duly appointed agent of the Banking and Insurance commissioner, whether or not such information would otherwise be protected from disclosure by any constitutional statutory or common law privilege.
  
2. I hereby authorize and request all persons or entities to whom this request is presented having documents related to or concerning applicant to permit a duly appointed agent of the Banking and Insurance Commissioner, whether or not such information would otherwise be protected from disclosure by any constitutional statutory or common law privilege.
  
3. If the person to who this request is presented is a brokerage firm, bank, savings and loan, or other financial institution or as office of same, applicant hereby authorized and request that a duly appointed agent of the Banking and Insurance Commissioner be permitted to review and obtain copies of any and all documents, records, or correspondence pertain to applicant including but not limited to past loan information notes co-signed by applicant check account records, savings deposit box record, passbook records, and general ledger folio sheets.

4. Applicant does hereby make, constitute, and appoint any duly appointed agent of the Banking and Insurance Commissioner of the Department of Revenue and Taxation its true and lawful attorney in-fact for it and its name place and stead an on its behalf and for its benefit:
  - a. To request, review, copy, sign for, or otherwise act for investigative purposes with respect to documents and information in the possession of the person or entity to whom this request is presented as applicant might.
  - b. To name the person or entity to whom this request is presented and insert that person's name in the appropriate location on this request.
5. Applicant grants to said attorney in fact full power and authority to do, take, and perform all and every act and thing whatsoever requisite proper, or necessary to be done in the exercise of any of the rights and powers herein granted as fully to all intents and purposes as applicant might or could do if it were present with full power of substitution or revocation hereby ratifying and confirming all that said attorney in fact or his substitute or substitute, shall lawfully do or cause to be done by virtue of this power of attorney and the right and powers herein granted.
6. This power of attorney is effective as of the date of execution and shall remain effective until five years after the surrender or revocation of the license of the applicant.
7. Applicant has filed with the Department of Revenue and Taxation, Insurance, Securities and Banking Division an "application" to be licensed or request for

approval of key officer/director/majority owner. Applicant understands that it is seeking the granting of a privilege and acknowledges that the burden of providing its qualifications for a favorable determination is at all times on it. Applicant accepts any risk or adverse public notice, embarrassment, criticism, or other action of financial loss, which may remit from action with respect to this application.

8. Applicant does for itself, its heirs, executors, administrators, successors, and assignee, hereby release, and forever discharge the person or entity to who this request is presented and his/it's agents and employees from all and all manner of actions, cause of action, suits, debts, judgments, execution, claims, and demands whatsoever, known or unknown, in law or equity which applicant ever had, now has, may have, or claim to have against the person or entity to whom this request is presented or his/it's agents or employees arising out of or by reason of complying with this request.

9. Applicant agrees to indemnify and hold harmless the person or entity to whom this request is presented and his/it's agents and employees from and against all claim damages, losses and expenses, including reasonable attorney's fees arising out of or by reason of complying with this request.

10. A reproduction of this request by photocopy or similar process shall be for all intents and purposes as valid as the original.



In witness whereof, I, an applicant or an authorized principal of the applicant, executed this Authorization to Disclose at \_\_\_\_\_,

on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Applicant Name: \_\_\_\_\_

By: \_\_\_\_\_ Title: \_\_\_\_\_

(Signature of applicant or authorized principal of applicant)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_\_.

Notary public in and for the county of \_\_\_\_\_, State of \_\_\_\_\_.

Notary Signature: \_\_\_\_\_ ) Notary Seal (

Signature of Agent presenting this request:

\_\_\_\_\_ Date: \_\_\_\_\_



Dipåtamenton Kontribusion yan Adu'aña

DEPARTMENT OF

# REVENUE AND TAXATION

GOVERNMENT OF GUAM

Gubetnamenton Guåhan

EDDIE BAZA CALVO, Governor / *Maga'låhi*  
RAY TENORIO, Lt. Governor / *Tiñente Gubetnadot*

JOHN P. CAMACHO, Director  
Direktot  
MARIE M. BENITO, Deputy Director  
Segundo Direktot

OCT 15 2013

The Honorable Tina Muna Barnes  
Legislative Secretary  
The 32nd Guam Legislature  
155 Hesler Place, Suite 101  
Hagatna, Guam 96910

Re: Economic Impact Statement of the Regulations under the Guam Secure and Fair Enforcement of Mortgage Licensing Act of 2010 (Guam S.A.F.E. Act Regulations)

Dear Senator Tina Muna Barnes:

Pursuant to 5 GCA, Section 9301 (i) our findings for the above referenced regulations are as follows.

On July 30, 2008, Title V of P.L. 110-289, the Secure and Fair Enforcement of Mortgage Licensing Act of 2008 (S.A.F.E. Act) was passed. The new federal law gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the Nationwide Mortgage Licensing System and Registry (NMLS).

The S.A.F.E. Act is designed to enhance consumer protection and reduce fraud through the setting of minimum standards for the licensing and registration of state licensed mortgage loan originators. Guam is mandated to adopt these rules.

The mortgage loan originators working under federally supervised banking institutions on island are currently registered with the NMLS and are in compliance with the Guam S.A.F.E. Act Regulations. The Guam S.A.F.E. Act Regulations does not include educational or testing requirements for mortgage loan originators employed by federally regulated banking institutions. Any training required is provided by the banking institutions.

However, the remaining independent mortgage loan originators and mortgage loan originators working under finance companies, and other companies must comply with the licensing and registration requirements of the Guam S.A.F.E. Act Regulations. This will require initial educational courses, examination, and licensing fees. Thereafter, the annual requirements will include continuing education courses and licensing fees.

MLO Licensing Cost	Initial	Renewal
1. SAFE-Certified 20 Hours training cost	349	
2. National & State Licensing Test	189	
3. National Fingerprinting & Background Check	39	39
4. Guam Application Fee	500	500
5. Guam Investigation Fee	100	
6. NMLS Registration Fee		
a. Company	100	100
b. Individual	30	30
c. Annual Fee	100	
7. Credit Report	15	15
	1422	684

Our office anticipates that less than one hundred (100) mortgage loan originators will apply for licensing. The estimated total costs associated with registration and licensing per applicant for initial licensing is \$1,422 and annual renewal is \$684. These estimates show that for the initial licensing year the applicants will incur \$114,220. This amount falls under the threshold exemption of \$500,000 allowed under 5 GCA , 9301 (i), which is reproduced below:

5GCA, 9301(i) Exemptions. Any proposed rule, change of rule, regulation or request to impose or raise fees or rates shall be exempted from the requirements of this Act if the annual economic impact to the general public is Five Hundred Thousand Dollars (\$500,000.00) or less, as determined by the department, agency, autonomous agency, office or instrumentality proposing the rule, change of rule, regulation or request to impose or raise fees.

Sincerely,



**ARTEMIO B. ILAGAN**  
Banking & Insurance Commissioner

RDT