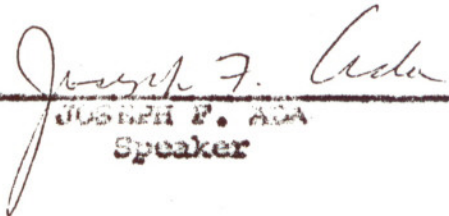


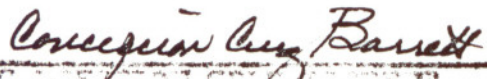
LEGISLATIVE COUNCIL OF GUAM  
1975 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 476, "An Act to amend Sections 18100.1, 20046 and 20518 of the Government Code of Guam, to repeal Sections 20022 and Article Chapter VI, Article III, Title XXXI of said code, and to add a new Chapter VII, to Article III, Title III of said code, relative to allowing foreign banking corporations to do business on Guam", was on the 17th day of November, 1975, duly and regularly passed.

  
\_\_\_\_\_  
JOSEPH F. ADA  
Speaker

ATTESTED:

  
\_\_\_\_\_  
CONCEPCION CRUZ BARRETT  
Legislative Secretary

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This Act was received by the Governor this 29th day of November, 1975 at 1:20 o'clock P.M.

/s/ Ruth F. Won-Pat  
\_\_\_\_\_  
RUTH F. WON PAT  
Assistant Staff Officer  
Governor's Office

APPROVED:

/s/ RICARDO J. BORDALLO  
\_\_\_\_\_  
RICARDO J. BORDALLO  
Governor of Guam

DATED: December 11, 1975  
12:45 P.M.

P.L. 13-111

THIRTIETH GUAM LEGISLATURE  
1975 (FIRST) Regular Session

Bill No. 476

Introduced by Committee on Rules  
At the request of  
the Governor

AN ACT TO AMEND SECTIONS 16100.1, 30046 AND  
30518 OF THE GOVERNMENT CODE OF GUAM, TO  
REPEAL SECTION 30002 AND RETITLE CHAPTER VI,  
ARTICLE III, TITLE XXXI OF SAID CODE, AND  
TO ADD A NEW CHAPTER VII, TO ARTICLE III,  
TITLE XXXI OF SAID CODE, RELATIVE TO ALLOWING  
FOREIGN BANKING CORPORATIONS TO DO BUSINESS  
ON GUAM.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. Section 16100.1 of the Government Code of  
3 Guam is hereby amended to read as follows:

4 "Section 16100.1. Banking. Every person engaging  
5 in or carrying on business in Guam of banking or receiving  
6 the money of others on deposit shall be required annually  
7 to obtain a commercial license; provided, however, that  
8 in addition to the requirements of this Subchapter, a  
9 license shall not be issued to a foreign banking corpora-  
10 tion unless its application has first been approved by  
11 the Banking Board pursuant to Section 30924 of this Code  
12 and the license is in the form prescribed by that Section.  
13 The annual fee for such license is Five Hundred Dollars  
14 (\$500.00). Institutions which are members of the Federal  
15 Reserve System of the United States shall be licensed  
16 upon meeting the general requirements of this Title. Any  
17 other persons engaged in the business of banking, or  
18 receiving the money of others on deposit, by whatever  
19 name said deposit is designated, may accept agreements  
20 for future deposit but shall not accept the deposit until  
21 the accounts of depositors have been insured in accordance  
22 with the rules and regulations of an appropriate agency  
23 of the United States Government, provided, however, that  
24 nothing herein contained shall prohibit persons from en-

1 engaging in the business of lending money with or without  
2 security when such money is the property of said persons."

3 Section 2. Section 30046 of the Government Code of Guam  
4 is hereby amended to read as follows:

5 "Section 30046. Transmitting money: foreign exchange.

6 (a) Any bank may accept money for transmissions and  
7 may transmit money.

8 (b) Any bank may buy and sell foreign exchange to  
9 the extent necessary to meet the needs of customers."

10 Section 3. Section 30518 of the Government Code of Guam  
11 is hereby amended to read as follows:

12 "Section 30518. Deposit insurance: membership in  
13 Federal Reserve System. A bank shall obtain insurance  
14 of its deposits by the United States or any agency thereof  
15 and may acquire and hold membership in the Federal Reserve  
16 System. The insurance provision of this section shall not  
17 apply to deposits held by foreign banking corporations  
18 pursuant to Section 30927 of this Code."

19 Section 4. Section 30902 of the Government Code of Guam  
20 is hereby repealed in its entirety, and Chapter VI of Article  
21 III of Title XXXI of the Government Code of Guam is hereby re-  
22 titled "Branch Banks and International Banking Corporations."

23 Section 5. A new Chapter VII is hereby added to Article  
24 III of Title XXXI of the Government Code of Guam to read as  
25 follows:

26 "Chapter VII

27 Foreign Banking Corporations

28 Part A

29 Definitions

30 Section 30910. Definitions. As used in this Chapter:

1 (1) 'Foreign banking corporation' means a  
2 banking corporation organized under the laws of a  
3 foreign state; and

4 (2) 'Foreign state' means any foreign government  
5 or any department, district, province, county,  
6 possession or other similar governmental organization  
7 or subdivision of a foreign government, and any agency  
8 or instrumentality of any such foreign government or  
9 any such organization or subdivision.

10 Part B

11 Transaction of Business

12 Section 30920. Right of foreign banking corporation  
13 to engage in business. A foreign banking corporation  
14 shall not engage in the banking or trust business in this  
15 Territory unless it is licensed to do so pursuant to the  
16 provisions of Section 30924 and unless it first complies  
17 with all the provisions of this Chapter and then only to  
18 the extent expressly permitted in this Chapter or by  
19 regulations of the Board. In transacting such business  
20 a foreign banking corporation shall comply with all  
21 applicable provisions of this Title and of the laws of  
22 this Territory.

23 Section 30921. Requirements to do business in  
24 Territory. A foreign banking corporation shall not commence  
25 to do business in this Territory until it has met the  
26 following requirements:

27 (a) It is authorized by its charter to trans-  
28 act the character of business described in Section  
29 30926 and has complied with the laws of the country  
30 under which it is incorporated.

1 (b) It has filed with the Commissioner a  
2 certified copy of its charter or articles of in-  
3 corporation and of its bylaws and a copy of an applica-  
4 tion for a Commercial License pursuant to Sections  
5 16101 and 16102 of this Code.

6 (c) It has furnished to the Commissioner such  
7 proof of the nature and character of its business and  
8 its financial condition, stock ownership, and manage-  
9 ment as he may require.

10 (d) It has designated the Commissioner and his  
11 successor in office by a duly executed instrument in  
12 writing, its agent, upon whom process directed to  
13 the corporation may be served. The Commissioner shall  
14 forward by mail, postage prepaid, a copy of every  
15 process served upon him under the provisions of  
16 this subdivision, addressed to the manager or agent  
17 of such corporation at its principal place of business  
18 in this Territory. For each copy of process the  
19 Commissioner shall collect the sum of Twenty-Five  
20 Dollars (\$25.00) which shall be paid by the plaintiff  
21 or moving party at the time of service, to be recovered  
22 by him as a part of his costs.

23 (e) It has complied with all applicable require-  
24 ments of the Civil Code of Guam relating to foreign  
25 corporations except matters specifically otherwise  
26 provided for in this Title.

27 (f) Its manager or agent residing in this  
28 Territory has taken an oath that he will, as far as  
29 the duty devolves upon him, diligently and honestly  
30 administer the affairs of the corporation and will not

1 knowingly violate or willfully permit to be violated  
2 any of the provisions of law applicable to the  
3 corporation and the oath, subscribed by the manager  
4 or agent taking it, has been transmitted to the  
5 Commissioner and filed in his office.

6 (g) It has allocated and assigned to its Guam  
7 business a portion of its capital and surplus equal  
8 in amount to the amount of capital and surplus required  
9 by Section 30501 for a bank commencing to do business  
10 on Guam.

11 (h) It has deposited with the Director of  
12 Administration evidences of indebtedness acceptable to  
13 him which:

14 (1) Are payable to bearer or recorded  
15 with the Commissioner's name;

16 (2) Constitute readily marketable legal  
17 investments for funds held by a bank as a  
18 fiduciary; and

19 (3) Have a value equal to seventy-five  
20 percent (75%) of the minimum capital and surplus  
21 requirements set forth in Section 30501.

22 (i) It has received from the License Board of  
23 the Department a commercial license pursuant to  
24 Section 16100.1.

25 Section 30922. Approval of money or securities  
26 deposited with the Director of Administration: Deposit  
27 with Director of Administration: Responsibility of  
28 Territory: Deposit of moneys: Exchange and withdrawal  
29 of securities: Deposit of additional money or securities:  
30 Investigation of securities: Sale and transfer of

1 securities. Money or securities deposited with the  
2 Director of Administration by a foreign banking corporation  
3 pursuant to Section 39921 shall first be approved by the  
4 Commissioner and upon his order shall be deposited with  
5 the Director of Administration.

6 Upon receiving any such deposit the Director of  
7 Administration shall give his receipt therefor and shall  
8 hold such deposit for the sole benefit of the creditors  
9 of such corporation's Guam business. The Territory is  
10 responsible for the custody and safe return of any such  
11 deposits excepting only money or securities applied for  
12 the benefit of such creditors pursuant to any order of  
13 court. The Director of Administration shall deposit any  
14 such moneys in a separate fund, herein created, to be  
15 called the 'Foreign Banking Fund'.

16 Securities deposited pursuant to this Section may  
17 be exchanged from time to time, with the approval of the  
18 Commissioner, for other like securities of equal market  
19 value. Upon written request to the Commissioner, any such  
20 corporation shall be entitled to withdraw from the Director  
21 of Administration, from time to time, any amount of its  
22 securities so deposited in excess of the amount it is  
23 required to maintain on deposit in order to conform with  
24 requirements of this Chapter. Upon receiving a written  
25 request for such withdrawal or exchange, and satisfactory  
26 proof of the facts warranting the same, the Commissioner  
27 shall forthwith deliver to the Director of Administration  
28 a written order directing the withdrawal or exchange of  
29 such securities so as to conform with the provisions of  
30 this Chapter. The Director of Administration shall comply

1 with such written order. So long as the corporation so  
2 depositing such securities shall continue solvent and shall  
3 discharge its Guam obligations promptly, it shall have the  
4 right and shall be permitted by the Director of Adminis-  
5 tration to receive the interest and dividends on any  
6 securities deposited by it.

7 Should any security so depreciate in value as to  
8 reduce the deposit below the amount required, additional  
9 money or securities shall be deposited at the time such  
10 security is presented for deposit or at any time there-  
11 after. The Commissioner may make such charge as may be  
12 reasonable and proper for such investigation.

13 The Director of Administration may sell and transfer  
14 any securities deposited pursuant to this Chapter and  
15 may dispose of the proceeds only on the order of a court  
16 of competent jurisdiction and for the benefit of the  
17 creditors of such corporation's business in Guam.

18 Section 30923. Assets, books of account and records  
19 in Territory for business to be separate: Priority of  
20 creditors of business in the Territory. Every foreign  
21 banking corporation doing business in this Territory shall  
22 keep the assets of its Guam business entirely separate  
23 and apart from the assets of its business outside Guam  
24 as though the Guam business was conducted by a separate  
25 and distinct corporation. Every such corporation shall  
26 keep separate books of account and separate records for  
27 its Guam business in words and figures of the English  
28 language and shall observe with respect to such business  
29 the applicable requirements of this Title and the rules  
30 and regulations of the Board. The creditors of such



1 corporation's Guam business shall be entitled to priority  
2 with respect to the assets of the Guam business before such  
3 assets may be used or applied for the benefit of its other  
4 creditors or transferred to its general business.

5 Section 30924. Approval of Application: Issuance  
6 of License: Transfer: Display. The Commissioner shall  
7 convey to the Board his recommendation as to whether the  
8 application of a foreign banking corporation should be  
9 approved. The Board may, in its discretion, direct  
10 License Division of the Department to issue such license  
11 to such corporation when it is satisfied that the corpora-  
12 tion has met all the requirements of this Chapter. The  
13 license shall authorize the corporation to transact the  
14 business permitted by Section 30926 at the location speci-  
15 fied therein. No such license shall be transferrable or  
16 assignable. Each such license shall be conspicuously  
17 displayed at all times in the place of business specified  
18 therein.

19 Section 30925. Suspension or revocation of license.  
20 If the Commissioner finds that any foreign banking corpora-  
21 tion to which he has issued a license pursuant to Section  
22 30924 has violated any law or has conducted its affairs in  
23 an unauthorized manner, or is in an unsound or unsafe con-  
24 dition, or cannot with safety and expediency continue  
25 business, the Commissioner may recommend that the Board  
26 suspend or revoke the license of such foreign banking cor-  
27 poration. The Board may then suspend or revoke such  
28 license, and shall notify the corporation of such suspension  
29 or revocation.

30 Section 30926. Business which may be transacted in

1 Territory. A foreign banking corporation which is autho-  
2 rized by license under Section 30924 may transact in this  
3 Territory the business of buying, selling, paying, or  
4 collecting bills of exchange, of issuing letters of credit,  
5 of receiving money for transmission by draft, check, cable  
6 or otherwise, and of making loans. It may transact in  
7 this Territory the business of accepting deposits only  
8 as provided in Section 30927.

9 Section 30927. Accepting deposits from foreign state  
10 or person, etc.

11 (a) In this section, "Person" means any person,  
12 firm, partnership, association, corporation, company,  
13 syndicate, estate, trust, business trust, or organiza-  
14 tion of any kind, or any branch or division thereof  
15 which is located outside the Territory of Guam.

16 (b) A foreign banking corporation may transact  
17 in this Territory the business of accepting deposits  
18 from any foreign state or from any person which  
19 resides, is domiciled, and maintains its principal  
20 place of business outside the Territory of Guam, if:

21 (1) Such foreign banking corporation has  
22 complied with all of the requirements of Section  
23 30921; and

24 (2) Such foreign banking corporation has  
25 received from the Commissioner his written  
26 approval to transact such business in this  
27 Territory.

28 (c) A foreign banking corporation which trans-  
29 acts such business in this Territory shall, with  
30 respect to business transacted by it in this Territory,

1           comply with and be subject to the provision of this  
2           Title.

3           Section 30928. Loans secured by mortgages on real  
4           property and acceptance of assignments of mortgages  
5           covering real property in Territory. Nothing in this  
6           Chapter shall be deemed to prohibit a foreign banking  
7           corporation which does not maintain an office in this  
8           Territory for the transaction of business from making  
9           loans in this Territory secured by mortgages on real  
10          property or from accepting assignments of mortgages  
11          covering real property situated in this Territory.

12          Section 30929. Loans: Purchase or sale of bonds.  
13          Nothing in this Chapter shall prohibit a foreign corpo-  
14          ration, subject to compliance with any applicable laws of  
15          this Territory pertaining to foreign corporations and any  
16          other applicable law, and which is not engaged in the  
17          banking business from lending money or buying or selling  
18          bonds in this Territory and for that purpose maintaining  
19          offices in this Territory and suing and being sued in  
20          this Territory under its corporate name.

21          Section 30930. Report to Commissioner: Verifi-  
22          cation: Content: Formal verification: Financial  
23          information. Every foreign banking corporation licensed  
24          by the Commissioner to transact business in this Territory,  
25          whenever required by the Commissioner, shall make a  
26          written report to him, in such form as he shall prescribe,  
27          in words and figures of the English language, verified  
28          by one of its officers, managers or agents residing in  
29          this Territory. Such report shall show the actual financial  
30          condition of the corporation's business in this Territory

1 at the close of any past day designated by the Commissioner,  
2 and shall set forth such other information as the Commis-  
3 sioner may require. The verification of such report shall  
4 state that the person making it has a personal knowledge  
5 of the matters therein contained and that he believes that  
6 every allegation, statement, and matter contained therein  
7 is true. If required by the Commissioner such corporation  
8 shall furnish complete financial information, in such form  
9 and detail as the Commissioner may prescribe, in words  
10 and figures of the English language verified by the proper  
11 officers, covering all the corporation's business not  
12 only in this Territory but elsewhere. The Commissioner or  
13 his designee shall also be empowered to enter the premises  
14 of any foreign banking corporation and to examine the  
15 books of record of its Guam business kept pursuant to  
16 Section 30923.

17 Section 30931. Same: Failure to make report or  
18 furnish information: Penalty: False statements. If  
19 any foreign banking corporation fails to make any report  
20 required by the Commissioner or refuses to furnish the  
21 required information in the form prescribed, or otherwise  
22 refuses to comply with Section 30930, it shall be liable  
23 to the people of this Territory in the sum of One Hundred  
24 Dollars (\$100.00) per day for each day that such omission  
25 continues. Any willful false statement made to the Commis-  
26 sioner by such corporation shall constitute perjury.

27 Section 30922. Failure to comply with Chapter:  
28 Penalty. Any foreign banking corporation which is required  
29 to comply with the provisions of this Chapter and fails  
30 to do so is guilty of a misdemeanor and in addition thereon

1 to shall be liable to the people of this Territory in  
2 the sum of One Hundred Dollars (\$100.00) per day for  
3 each day that such offense continues.

4 Section 30933. Transaction of business in Territory  
5 on behalf of foreign banking corporation not authorized;  
6 Penalty. Any person who transacts business in this  
7 Territory on behalf of a foreign banking corporation which  
8 is subject to the provisions of this Chapter but which is  
9 not authorized to transact business in this Territory is  
10 guilty of a misdemeanor and in addition thereto shall be  
11 liable to the people of this Territory in the sum of  
12 One Hundred Dollars (\$100.00) per day for each day that  
13 such offense continues.

#### 14 Part C

#### 15 Representation Without Transaction of Business

16 Section 30940. Establishment and maintenance of  
17 office by representative of foreign banking corporation.  
18 An individual may establish and maintain an office or  
19 offices in this Territory as a representative of one or  
20 more foreign banking corporations, but only upon first  
21 obtaining a license from the Commissioner. The applica-  
22 tion for such license shall be in such form and shall  
23 set forth such information as the Commissioner may re-  
24 quire, and shall be accompanied by a fee of Two Hundred  
25 Fifty Dollars (\$250.00). The Commissioner may grant or  
26 refuse the application in his discretion and at any time,  
27 in his discretion, revoke any such license. Such repre-  
28 sentative shall pay an annual license fee of One Hundred  
29 Dollars (\$100.00) for each such office. If more than  
30 one individual representative of the same foreign banking

1 corporation uses the same office the annual license fee  
2 shall be One Hundred Dollars (\$100.00) plus Twenty-Five  
3 Dollars (\$25.00) for each individual representative over  
4 one using the same office.

5 Section 20341. Maintenance of place of business  
6 of representative. Any licensed representative may  
7 maintain one or more places of business as his office as  
8 such representative, but not as a place of business of  
9 the foreign banking corporation. Notwithstanding anything  
10 in this Title to the contrary, he may use an office sign  
11 at his place of business indicating that such place is  
12 the office of a representative of the particular foreign  
13 banking corporation which he represents, and he may use  
14 in his business, as such representative, the letterheads,  
15 circulars and other printed matter of such foreign banking  
16 corporation."