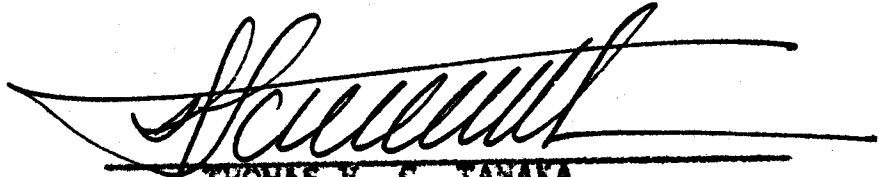


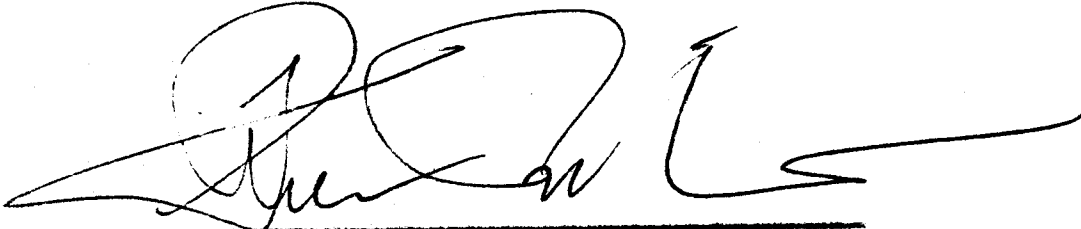
SIXTEENTH GUAM LEGISLATURE  
1982 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 785, "An Act to amend the General Corporation Law and the Uniform Securities Act to facilitate the formation and operation of Domestic Investment Companies and International Finance Companies", was on the 28th day of September 1982, duly and regularly passed.

  
THOMAS V. C. TANAKA  
Speaker

ATTESTED:



THOMAS C. CRISOSTOMO  
Senator and Legislative Secretary

.....  
This Act was received by the Governor this \_\_\_\_\_ day of  
\_\_\_\_\_, 1982, at \_\_\_\_\_ o'clock M.

\_\_\_\_\_  
SHERRA L. FRANCISCO  
Assistant Staff Officer  
Governor's Office

APPROVED:

\_\_\_\_\_  
PAUL M. CALVO  
Governor of Guam

DATED: 10-20-82  
16-115

SIXTEENTH GUAM LEGISLATURE  
1982 (SECOND) Regular Session

Bill No. 785  
(As Substituted by the Committee  
on Economic Development)

Introduced by: F. F. Blas, K. S. Moylan, A. R. Unpingco

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J. F. Quan  
M. Z. Bordallo  
E. T. Charfauros  
T. C. Crisostomo  
E. R. Duenas  
C. T. C. Gutierrez  
C. A. Kasperbauer  
A. C. Lamorena III  
J. I. Leon Guerrero  
P. F. Perez, Jr.  
F. J. Quitugua  
J. T. San Agustin  
F. R. Santos  
R. Q. Sudo  
J. Q. Torres  
T. V. C. Tanaka  
L. L. Umagat  
J. H. Underwood

AN ACT TO AMEND THE GENERAL CORPORATION LAW  
AND THE UNIFORM SECURITIES ACT TO FACILITATE  
THE FORMATION AND OPERATION OF DOMESTIC INVEST-  
MENT COMPANIES AND INTERNATIONAL FINANCE  
COMPANIES.

1           WHEREAS, this Legislature enacted Public Law 16-65 for the  
2 purpose of promoting the economic development of Guam by facili-  
3 tating the formation and operation of Domestic Investment  
4 Companies and International Finance Companies, and providing for  
5 the regulation of the same; and

6           WHEREAS, it is necessary to amend existing statutes to bring  
7 them into conformance with these purposes; now, therefore,

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

9           Section 1. Section 278 of the Civil Code is amended by  
10 adding the following two (2) new paragraphs at the end to read:

11           "'Investment Company' refers to any domestic corpora-  
12 tion whose purpose includes or which does engage in the  
13 following activity:

1 (a) Investing, reinvesting or trading in or  
2 the acquisition or ownership of securities or  
3 other property from which any gross fixed or  
4 determinable annual or periodical gains, profits,  
5 and income shall be treated as income from sources  
6 without Guam in accordance with the provisions of  
7 Section 862 or Section 863 of the Guam Territorial  
8 Income Tax Law as its primary activity or engaging  
9 in the conduct of business as an investment com-  
10 pany as defined in any law of the United States or  
11 of Guam (unless provision is made in its articles  
12 of incorporation that majority ownership must be  
13 held at all times beneficially and of record by  
14 individual residents in Guam).

15 'International Finance Company' refers to any  
16 domestic corporation whose purpose includes or which  
17 does engage in the following activity:

18 (a) Deriving at least fifty percent (50%)  
19 of its annual gross income as interest or similar  
20 fees or revenue from any of its stockholders or  
21 any affiliate of its stockholders or any person  
22 responsible for the existence of such stockholder  
23 relationship; and

24 (1) which either:

25 (i) has outstanding obligations  
26 with an original maturity date of longer  
27 than one (1) year in a principal amount  
28 greater than its capital;

1 (ii) which holds, as assets, obli-  
2 gations of any one debtor (including,  
3 for this purpose, obligations of all  
4 other entities which are under common  
5 control with a debtor) equal to an  
6 amount greater than such company's  
7 capital; or

8 (iii) which has at least fifty  
9 percent (50%) of its obligations guaran-  
10 teed as to principal or interest by any  
11 one or more of its debtors or converti-  
12 ble into the securities of any one or  
13 more of its debtors."

14 Section 2. Subsection (9) is added to Section 290 of the  
15 Civil Code to read:

16 "(9) If the corporation is either or both an Invest-  
17 ment Company or International Finance Company, its articles  
18 of incorporation shall state in compliance with the require-  
19 ment of Subsection (2) of this Section, and in addition to  
20 any other statements in compliance therewith, that its  
21 purpose is to be an Investment Company or an International  
22 Finance Company, or both, as the case may be."

23 Section 3. Section 290a of the Civil Code is amended by  
24 adding the following new paragraph at the end to read:

25 "Before any corporation whose purpose includes, or is  
26 to include, that of an Investment Company or International  
27 Finance Company, or both, may file with the Director of  
28 Revenue and Taxation its articles or an amendment to its  
29 articles, or an agreement for consolidation or merger which

1 would permit the corporation to conduct the business of  
2 acting as an Investment Company or International Finance  
3 Company, or both, there must be attached thereto a certifi-  
4 cate of approval by the Administrator under the Uniform  
5 Securities Act indicating compliance with and satisfaction  
6 of the requirements of Section 45202 of the Government Code  
7 and any rules relating thereto prescribed by the Administra-  
8 tor pursuant to Section 45412 of the Government Code."

9 Section 4. Section 298 is added to the Civil Code to read:

10 "Section 298. Notwithstanding any other provision of  
11 this Title, an Investment Company or an International  
12 Finance Company may, if its articles of incorporation so  
13 provide as to any of the following:

14 (a) Authorize the issuance of one or more classes of  
15 stock or one or more series of stock within any class  
16 thereof:

17 (1) any or all of which classes may be of stock  
18 with par value or stock without par value (in which  
19 case such amount as shall be capital of the issuer  
20 shall be designated not later than sixty (60) days  
21 following issue) and which classes or series may have  
22 such voting powers, full or limited, or no voting  
23 powers, and such designations, preferences and rela-  
24 tive, participating, optional or other special rights,  
25 and qualifications, limitations, restrictions or  
26 prohibitions including, without limitation, restric-  
27 tions or prohibitions on transfer, based upon the  
28 nationality or country of residence of a transferee  
29 thereof or other factors, as shall be stated

1 and expressed in the articles of incorporation or of  
2 any amendment thereto, or in the resolution or resolu-  
3 tions providing for the issuance of such stock adopted  
4 by the board of directors pursuant to authority  
5 expressly vested in it by the provisions of its  
6 articles of incorporation;

7 (2) which are redeemable or convertible into  
8 other securities, in whole or in part, at the option  
9 of the issuer;

10 (3) which are redeemable at the option of the  
11 holder at a price approximately equal to the shares'  
12 proportionate interest in the net assets of the issuer,  
13 or convertible at the option of the holder into other  
14 securities, and a stockholder may compel redemption  
15 or conversion of such shares in accordance with their  
16 terms;

17 (4) which if redeemed or converted may be  
18 retired or held as treasury shares as determined from  
19 time to time by the board of directors; and

20 (5) which provide that no stockholder shall be  
21 entitled to cumulate votes in the election of directors  
22 as otherwise provided by Section 307 of this Code;

23 (b) Issue fractional shares; and

24 (c) Grant preemptive rights, if any, to the holders  
25 of any of its securities to subscribe to any or all addi-  
26 tional issues of securities of the issuer or to any or all  
27 classes or series thereof."

1 Section 5. Section 299 is added to the Civil Code to read:

2 "Section 299. Except as may otherwise be provided in  
3 the articles of incorporation of an Investment Company or  
4 an International Finance Company, the stockholders or  
5 members of any such corporation shall not be personally  
6 liable for the payment of the debts of any such corporation  
7 except as they may be liable by reason of their own conduct  
8 or acts, and, notwithstanding any other provision of this  
9 Title, an Investment Company or an International Finance  
10 Company, unless its articles of incorporation expressly  
11 exclude the application of any of the following provisions:

12 (a) May issue shares of its authorized but previously  
13 unissued stock and may dispose of treasury shares for such  
14 consideration (including cash, services rendered, personal  
15 or real property or leases thereof, or a combination of any  
16 of the foregoing) as is determined from time to time by the  
17 board of directors, provided that in the case of issuance  
18 of shares, such consideration shall have a value not less  
19 than the par value or capital value of such shares, as the  
20 case may be;

21 (b) May amend its articles of incorporation by the  
22 affirmative vote of the holders of a majority of the stock  
23 entitled to vote; the holders of the outstanding shares of  
24 a class shall be entitled to vote as a class upon a proposed  
25 amendment, whether or not entitled to vote thereon by the  
26 provisions of the articles of incorporation, if the amend-  
27 ment would increase or decrease the aggregate number of  
28 authorized shares of such class, increase or decrease the

1 par value of the shares of such class, or alter or change  
2 the powers, preferences or special rights of the shares of  
3 such class so as to affect them adversely; if any proposed  
4 amendment would alter or change the powers, preferences, or  
5 special rights of one or more series of any class so as to  
6 affect them adversely, but shall not so affect the entire  
7 class, then only the shares of the series so affected by  
8 the amendment shall be considered a separate class for the  
9 purposes of this subsection; and, if more than one class of  
10 stock or more than one series of any class are issued, the  
11 powers, designations, preferences and relative, partici-  
12 pating, optional or other special rights of each class of  
13 stock or series thereof and the qualifications, limitations  
14 or restrictions of such preferences or rights shall be  
15 set forth in full or summarized on the face or back of the  
16 certificate representing shares of such class or series  
17 of stock, provided that in lieu of the foregoing requirements,  
18 there may be set forth on the face or back of such certifi-  
19 cate a statement that the issuer will furnish without charge  
20 to each stockholder who so requests the powers, designations,  
21 preferences and relative, participating, optional or other  
22 special rights of each class of stock or series thereof and  
23 the qualifications, limitations or restrictions of such  
24 preferences or rights;

25 (c) May authorize and make distributions to stock-  
26 holders in cash, in-kind or in securities issued by it  
27 whenever and to the extent that:

28 (1) immediately after authorization thereof, its  
29 net assets, valued at the higher of either market or  
30 book and after giving effect to the proposed distri-  
31 bution, shall be at least equal in value to the



1 aggregate par value and capital value of the outstanding  
2 shares of its stock and, in the case of distribution  
3 of securities issued by it, such distribution would not  
4 reduce its net assets below the aggregate par and  
5 capital values of its outstanding stock as adjusted  
6 to reflect such distribution;

7 (2) the total amount or value thereof (excluding  
8 distributions of shares of its stock) does not exceed  
9 its net profits for the fiscal year in which such  
10 distribution is authorized or the preceding fiscal  
11 year; or

12 (3) the effect thereof would be to distribute up  
13 to all of the amount of which a specified portion  
14 thereof would have to be distributed to satisfy the  
15 requirements of Section 852(a)(1) of the Guam Territo-  
16 rial Income Tax Law; provided, however, that no  
17 stockholder shall be liable to any person with respect  
18 to any distribution received whether or not in viola-  
19 tion hereof unless such stockholder shall have had  
20 actual knowledge at the time of receipt that such  
21 distribution was made in violation hereof;

22 (d) May adopt, amend or repeal its by-laws by the  
23 affirmative vote of a majority of its entire board of  
24 directors or in such other manner as may be specified in  
25 its articles of incorporation; provided, however, that a  
26 copy of its by-laws, as amended, and certified by an officer  
27 of the corporation, shall be kept in the principal office  
28 of the corporation;

29 (e) May issue, register and deliver certificates  
30 representing shares of its stock or any other securities

1 either in registered form or, subject to any rules made from  
2 time to time by the Administrator under the Uniform Securi-  
3 ties Act governing the issuance of bearer securities by an  
4 Investment Company or an International Finance Company, in  
5 bearer form;

6 (f) May authorize the use of facsimiles for any or  
7 all signatures on certificates representing securities of  
8 the corporation; and if any officer, transfer agent or  
9 registrar who has signed or whose facsimile signature has  
10 been placed upon a certificate shall have ceased to be such  
11 officer, transfer agent or registrar before such certificate  
12 is issued, the certificate may be issued by the issuer with  
13 the same effect as if such person were an officer, transfer  
14 agent or registrar at the date of issue;

15 (g) May, in addition to or in lieu of the issuance  
16 of certificates representing securities of the corporation,  
17 adopt a system of issuance, recordation or transfer of its  
18 securities by electronic or other means not involving any  
19 issuance of certificates, including provisions for notice  
20 to purchasers in substitution for the delivery of such  
21 certificates and for any statement thereon necessary to  
22 comply with Subsection (b) of this Section; and

23 (h) May issue a new certificate representing securi-  
24 ties of the corporation in the place of any certificate  
25 theretofore issued by it, alleged to have been lost, stolen  
26 or destroyed, and the corporation may require the owner  
27 of the lost, stolen or destroyed certificate, or his legal  
28 representative, to give the corporation a bond sufficient  
29 to indemnify it against any claim that may be made against  
30 it on account of the alleged loss, theft or destruction of  
31 any such certificate or the issuance of such new certifi-  
32 cate."

1           Section 6. Section 300 is added to the Civil Code to  
2 read:

3           "Section 300. (a) The following provisions of this  
4 Title shall not apply to any Investment Company or to any  
5 International Finance Company:

6                   (1) Section 292;

7                   (2) Section 293;

8                   (3) Section 295(c);

9                   (4) Section 301;

10                   (5) Section 302, to the extent (i) that notice to  
11 any stockholder whether in or absent from Guam may be  
12 delivered and served by depositing the same with any  
13 office or collection facility of the United States  
14 mail, first class postage prepaid addressed to such  
15 stockholder at his address of record as shown by the  
16 books of the corporation and service of said notice  
17 may be proved prima facie by an affidavit of the person  
18 making such deposit, and (ii) no posting of any notice  
19 shall be required;

20                   (6) Section 304;

21                   (7) Section 305, to the extent (i) that directors  
22 need not be elected from among the holders of stock, or,  
23 where there is no stock, from the members of the cor-  
24 poration, and (ii) that any contractual arrangement  
25 duly authorized by the board of directors shall other-  
26 wise provide for the management or administration of  
27 its business or property;

28                   (8) Section 306, and no officer shall be required  
29 to own any shares of the capital stock of the corpora-  
30 tion of which he is an officer;

1 (9) Section 308, to the extent that the president  
2 need not be a director and neither the secretary nor  
3 the treasurer need be a resident of Guam;

4 (10) Section 319, to the extent that the meeting  
5 of the stockholders or members of a corporation need  
6 not be held in Guam, but may be held in such other  
7 place as may be fixed by the board of directors, if an  
8 annual meeting of stockholders or members of the cor-  
9 poration was held in Guam within the past two (2)  
10 calendar years;

11 (11) Section 324;

12 (12) Section 326;

13 (13) Section 327, to the extent set out in  
14 Section 300(5);

15 (14) Section 354(e), to the extent that there  
16 shall be no restrictions applicable to real estate  
17 located outside Guam;

18 (15) Section 356;

19 (16) Section 359;

20 (17) Section 377; and

21 (18) Section 378.

22 (b) Notwithstanding any other provision of this  
23 Title:

24 (1) No Investment Company or International  
25 Finance Company shall issue shares having par value  
26 unless the consideration received for such shares  
27 includes cash in an amount not less than the sum of  
28 the par value of such shares;

1 (2) No individual shall serve as director of a  
2 Public Finance Corporation unless such individual owns  
3 at least one (1) share of the capital stock of such  
4 corporation;

5 (3) At least one director of a Public Finance  
6 Corporation shall be a resident of Guam; and

7 (4) As used in this subsection, the term 'Public  
8 Finance Corporation' means a stock corporation that  
9 is an Investment Company and has more than thirty-five  
10 (35) shareholders of record."

11 Section 7. Section 361 is added to the Civil Code to read:

12 "Section 361. Whenever any person shall be organized  
13 or formed or exist under the laws of this territory other  
14 than as a corporation incorporated pursuant to this Title  
15 which if it were such a corporation would be an Investment  
16 Company or International Finance Company and is an associa-  
17 tion taxable as a corporation pursuant to the provisions of  
18 the Guam Territorial Income Tax Law, it shall be deemed an  
19 Investment Company or an International Finance Company, as  
20 the case may be, and may exercise the powers and be subject  
21 to the restrictions applicable pursuant to this Title  
22 to an Investment Company or International Finance Company as  
23 the case may be, except for provisions of this Title for  
24 corporate procedures which would be manifestly inapplicable  
25 to such person, but subject to such rules as may be issued  
26 by the administrator under the Uniform Securities Act."

27 Section 8. Subsection (11) is added to Section 303 of the  
28 Civil Code to read:

29 "(11) In the case of an Investment Company or an  
30 International Finance Company (i) such rights of inspection,

1 if any, by a director or stockholder of the corporation's  
2 by-laws, list of stockholders, stock and transfer books,  
3 records of business transactions and any other books and  
4 records of the corporation, and (ii) provision for the  
5 indemnification of directors, officers, employees and  
6 agents of the corporation against liabilities arising or  
7 asserted against them as such, and expenses arising in  
8 connection therewith."

9 Section 9. Subsection (a) of Section 45202 of the Govern-  
10 ment Code is amended to read:

11 "(a) It is unlawful for any person to transact  
12 business within this territory or to maintain any place of  
13 business in the territory or, if incorporated, organized or  
14 formed under the laws of this territory, to transact  
15 business or maintain any place of business as either an  
16 investment company or as an international finance company,  
17 or both, unless such person:

18 (1) shall have filed a notification of intention  
19 with respect thereto with the Administrator under this  
20 Title together with a nonrefundable filing fee of Five  
21 Hundred Dollars (\$500); and

22 (2) shall have in response to such notification  
23 of intention been issued a receipt of satisfactory  
24 notification by the Administrator, which receipt has  
25 not been withdrawn."

1 Section 10. Subsection (e) of Section 45202 of the Govern-  
2 ment Code is amended to read:

3 "(e) For the purpose of this Title, 'Investment  
4 Company' shall have the same meaning (i) as it would have  
5 pursuant to Section 3(a) of the United States Investment  
6 Company Act of 1940, without excluding any securities  
7 from the definition of 'investment securities' contained  
8 in the final sentence thereof, provided that the  
9 Administrator by rule may provide for exemptions or  
10 exclusions from such meaning consistent with Section 3 of  
11 the Investment Company Act of 1940 of the United States  
12 where the company's business activity, assets and ownership  
13 are substantially located in Guam or under such exemptions  
14 and exclusions, consistent with Section 3(b) or (c) of such  
15 Act upon substantial compliance with the procedures provided  
16 for under Subsection (c) of this Section, or (ii) as it has  
17 under any other law of the United States or Guam and  
18 'International Finance Company' shall mean any company:

19 (1) which is not an 'investment company';

20 (2) which derives at least fifty percent (50%)  
21 of its annual gross income as interest or similar fees  
22 or revenue from any of its stockholders, or any affiliate  
23 of its stockholders or any person responsible for  
24 the existence of such stockholder relationship; and

25 (3) which either:

26 (i) has outstanding obligations with an  
27 original maturity date of longer than one (1)  
28 year in a principal amount greater than its  
29 capital;

30 (ii) which holds, as assets, obligations of  
31 any one debtor (including, for this purpose,

1 obligations of all other entities which are under  
2 common ownership control with a debtor) equal to  
3 an amount greater than such company's capital; or  
4 (iii) which has at least fifty percent  
5 (50%) of its obligations guaranteed as to princi-  
6 pal or interest by any one or more of its debtors  
7 or convertible into the securities of any one or  
8 more of its debtors.

9 Section 11. Item (13) is added to Subsection (b) of  
10 Section 45402 of the Government Code to read:

11 "(13) any offer or sale of securities of an Invest-  
12 ment Company or an International Finance Company to an  
13 offeree or purchaser who is neither a citizen nor a resident  
14 of the United States or of Guam."



DATE 9-29-82

SIXTEENTH GUAM LEGISLATURE

VOTING RECORD

5 BILL/RESOLUTION NO. 285

MAIN SPONSOR FB

SENATOR	AYE	NAY	NOT VOTING	ABSENT
BLAS, Frank F.	✓			
BORDALLO, Madeleine Z.	✓			
CHARFAUROS, Edward T.	✓			
CRISOSTOMO, Thomas C.	✓			
DUENAS, Edward R.	✓			
GUTIERREZ, Carl T. C.	✓			
KASPERBAUER, Carmen A.	✓			
LAMORENA, Alberto C., III	✓			
LEON GUERRERO, Jose I.	✓			
MOYLAN, Kurt S.	✓			
PEREZ, Peter F., Jr.	✓			
QUAN, John F.	✓			
QUITUGUA, Franklin J.	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Francisco R.	✓			
SUDO, Ramon Q.	✓			
TANAKA, Thomas V. C.	✓			
TORRES, Jess Q.	✓			
UMAGAT, Lloyd M.	✓			
UNDERWOOD, James H.	✓			
UNPINGCO, Antonio R.	✓			

T O T A L

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