



Territory of Guam  
Territorio de Guam

OFFICE OF THE GOVERNOR  
UFSINAN I MAGA'LAHI  
AGANA, GUAM 96910 U.S.A.

*Rec'd by P. Lujan*  
*12/30/94*  
*10:45 pm*

**RECEIVED**

OFFICE OF THE SPEAKER

DATE: 12-31-94

TIME: 11:11 AM

DEC 31 1994

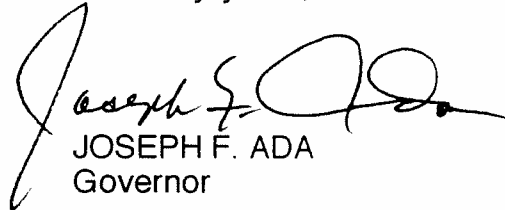
RECD BY: epz

The Honorable Joe T. San Agustin  
Speaker, Twenty-Second Guam Legislature  
155 Hesler Street  
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 948, which I have signed into law this date as  
Public Law 22-162.

Sincerely yours,

  
JOSEPH F. ADA  
Governor

220930

Attachment



Commonwealth Now!

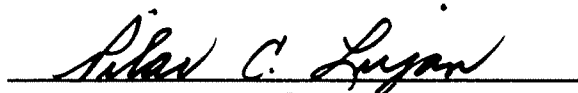
TWENTY-SECOND GUAM LEGISLATURE  
1994 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

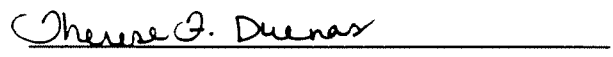
This is to certify that Substitute Bill No. 948 (LS), "AN ACT TO AMEND SUBSECTION (e) OF §43166 OF THE GOVERNMENT CODE ON THE INVESTMENTS OF A DOMESTIC INSURER'S CAPITAL," was on the 9th day of December, 1994, duly and regularly passed.

  
JOE T. SAN AGUSTIN  
Speaker

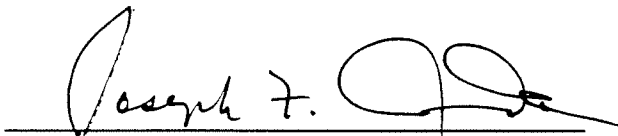
Attested:

  
PILAR C. LUJAN  
Senator and Legislative Secretary

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This Act was received by the Governor this 19th day of December,  
1994, at 4:38 o'clock P.M.

  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
JOSEPH F. ADA  
Governor of Guam  
DEC 9 1994

Date: \_\_\_\_\_

Public Law No. 22-162

TWENTY-SECOND GUAM LEGISLATURE  
1994 (SECOND) Regular Session

Bill No. 948 (LS)

As amended by the Committee on  
Economic-Agricultural Development &  
Insurance and as further substituted on the floor

Introduced by:

V. C. Pangelinan  
C. T. C. Gutierrez  
T. C. Ada  
T. S. Nelson  
M. D. A. Manibusan  
J. P. Aguon  
E. P. Arriola  
M. Z. Bordallo  
H. D. Dierking  
P. C. Lujan  
T. S. Nelson  
D. Parkinson  
E. D. Reyes  
J. T. San Agustin  
F. E. Santos  
D. L. G. Shimizu  
J. G. Bamba  
A. C. Blaz  
D. F. Brooks  
F. P. Camacho  
M. D. A. Manibusan  
T. V. C. Tanaka  
A. R. Unpingco

AN ACT TO AMEND SUBSECTION (e) OF §43166 OF  
THE GOVERNMENT CODE ON THE INVESTMENTS  
OF A DOMESTIC INSURER'S CAPITAL.

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

1           **Section 1. Legislative statement.** The Fourth Guam Legislature  
2 enacted §43166(e) Chapter II, Article I of the Government Code in order  
3 to protect a domestic insurer from becoming insolvent by failure to  
4 diversify its investments in a financially prudent manner. The purpose  
5 of this provision was to ensure these investments yield a steady income  
6 which can be readily converted to cash to allow domestic insurers to  
7 promptly pay claims and all short and long term obligations to its  
8 vendors. With a small banking community investing heavily in building  
9 a postwar economy and operating in virtual isolation, the Fourth  
10 Guam Legislature found it necessary to place these investment  
11 restrictions on domestic insurers. However, since the enactment of  
12 Public Law 4-102 nearly forty years ago, Guam's economy has changed  
13 significantly and its financial investment climate has dramatically  
14 improved. With the lifting of the security clearance, the influx and  
15 establishment of financially strong banking and lending institutions,  
16 and the advent of electronic banking, Guam's banking industry has  
17 grown and flourished. It is now operating under significantly higher  
18 levels of capitalization and assets as well as international, national and  
19 local banking regulations that provide adequate protections for  
20 relatively safe investments.

21           In the past forty years, domestic insurers have also experienced an  
22 increase in the amounts of its capital and surplus that must be invested.  
23 These increases and the changes in Guam's banking industry have made  
24 it increasingly difficult for domestic insurers to comply with the 10%  
25 limitation imposed by §43166(e) without compromising their ability to  
26 maximize their returns on their investments and deposits.

1           It is the Legislature's intent to amend the law to allow domestic  
2 insurers the flexibility to more profitably manage their investments and  
3 to provide adequate provisions to ensure that there are no increases in  
4 risks associated with this flexibility.

5           **Section 2.** Subsection (e) of 43166 of the Government Code is amended  
6 to read:

7                   "(e) Not more than ten percent (10%) of an insurer's capital  
8 and surplus may be invested in or loaned upon the security of any  
9 one person, nor loaned upon the security of any one parcel of  
10 property: provided, however, that there shall be a fifty percent  
11 (50%) limitation of the total amount of an insurer's capital and  
12 surplus that may be invested and/or deposited in any bank that  
13 provides evidence to the domestic insurer that it has met each of  
14 following requirements:

15                   (i) It is insured by the Federal Deposit Insurance Corporation  
16 ("FDIC") or by the Federal Savings and Loan Corporation  
17 ("FSLC"), or meets the minimum levels of capital-to-asset ratio  
18 measures for Tier One and Tier Two capital as established by the  
19 Bank of International Settlements and is otherwise licensed and  
20 authorized to transact business and otherwise accept deposits  
21 without restrictions in the territory of Guam.

22                   (ii) The total amount of its deposits from all domestic  
23 insurers shall not exceed ten percent (10%) of its total assets; and

24                   (iii) The bank is not listed as a troubled institution by FDIC."

12/19/94

Bill No. 948

Resolution No. \_\_\_\_\_

(Date)

Question: \_\_\_\_\_

Senators	Aye	No	Declined to Vote	Required to vote	Excused from voting	ABSENT/OUT DURING ROLL CALL
Ada, Thomas C.	✓					
AGUON, John P.	✓					
ARRIOLA, Elizabeth P.	✓					
BAMBA, George J.	✓					
BLAZ, Anthony C.	✓					
BORDALLO, Madeleine Z.						✓
BROOKS, Doris F.	✓					
CAMACHO, Felix P.	✓					
DIERKING, Hermina D.	✓					
GUTIERREZ, Carl T. C.	✓					
LUJAN, Pilar C.	✓					
MANIBUSAN, M. D. A.	✓					
NELSON, Ted S.	✓					
PANGELINAN, Vicente C.	✓					
PARKINSON, Don	✓					
REYES, Edward D.	✓					
SAN AGUSTIN, Joe T.			✓			
SANTOS, Francis E.			✓			
SHIMIZU, David L. G.	✓					
TANAKA, Thomas V. C.	✓					
UNPINGCO, Antonio R.	✓					

TOTAL

18		2				1
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948

Office of



The People

Senator Vicente C. Pangelinan  
Twenty-Second Guam Legislature

Chairman, Committee on Economic-Agricultural Development and Insurance  
130 Aspinall Avenue • Suite 101 • Agana Guam • 96910 Phone (671) 472-3552-4 Fax (671) 472-3556

28 October 1994

Speaker Joe T. San Agustin  
Twenty-Second Guam Legislature  
155 Hesler St.  
Agana, Guam 96910

Dear Mr. Speaker,

The Committee on Economic-Agricultural Development and Insurance, to which was referred Bill 948 wishes to report back to the Legislature with its recommendation **TO DO PASS** as amended by the Committee. The voting record is as follows:

TO PASS	<u>10</u>
NOT TO PASS	0
ABSTAIN	0
TO PLACE IN INACTIVE FILE	0

Copies of the Committee Report and other pertinent documents are attached. Your attention to this matter is appreciated.

Sincerely,

  
vicente c. pangelinan  
Chairman

Attachments.

Office of



The People

Senator Vicente C. Pangelinan  
Twenty-Second Guam Legislature

Chairman, Committee on Economic-Agricultural Development and Insurance  
130 Aspinall Avenue • Suite 101 • Agana Guam • 96910 Phone (671) 472-3552-4 Fax (671) 472-3556

October 5, 1994

MEMORANDUM

TO: Members, Committee on  
Economic-Agricultural Development and Insurance

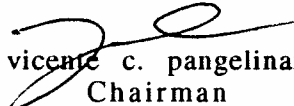
FROM: Sen. Vicente C. Pangelinan

SUBJECT: Committee Report and Voting Sheet

Transmitted herewith for your information and action is the Committee Report concerning Bill 948. The narrative report is accompanied by the following:

- 1. Committee Voting Sheet
- 2. Written Testimony
- 3. Evidentiary Materials

Should you have any questions on the narrative report or the accompanying documents, I would be happy to answer any of them. Please take the appropriate action on the attached voting sheet and return the documents to my office for transmittal to the other members. Your prompt attention and cooperation in this matter is greatly appreciated.

  
vicente c. pangelinan  
Chairman

attachments.

COMMITTEE ON RULES OCT 18 1994

Rec'd by:                      Date: 10/15 Time: 8:30

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Routing:	Date:	Sen's Ini.
Jackie Blas	_____	_____
	_____	_____

Action: \_\_\_\_\_





Senator Vicente C. Pangelinan  
Twenty-Second Guam Legislature

Chairman, Committee on Economic-Agricultural Development and Insurance  
130 Aspinall Avenue • Suite 101 • Agana Guam • 96910 Phone (671) 472-3552-4 Fax (671) 472-3556

COMMITTEE VOTING SHEET

SUBJECT: Committee Report on Bill 948 • AN ACT TO AMEND §43166 (e) OF THE GOVERNMENT CODE RELATIVE TO INVESTMENTS OF INSURER'S CAPITAL.


Committee Members	Initial	To Pass	Not to Pass	Abstain	To Place InInactive File
V.C. Pangelinan	<i>VP</i>	✓			
T.C. Ada	<i>TA</i>	✓			
A.C. Blaz	<i>AB</i>	✓			
F.P. Camacho	<i>FC</i>	✓			
H.D. Dierking	<i>HD</i>	✓			
P.C. Lujan	<i>PL</i>	✓			
M.D.A. Manibusan	<i>MDA</i>	✓			
T. Nelson	<i>TN</i>	✓			
E.D. Reyes	<i>ER</i>	✓			
J.T. San Agustin	<i>JS</i>	✓			
F.E. Santos					
T.V.C. Tanaka					

**TWENTY-SECOND GUAM LEGISLATURE**  
**Second (1994) Regular Session**

Bill No. 948  
As amended by the EAD& I Committee

Introduced by:

V. C. Pangelinan  
C.T.C. Gutierrez  
T.C. Ada



**AN ACT TO AMEND SUBSECTION (e) of §43166 GOVERNMENT  
CODE ON THE INVESTMENTS OF A DOMESTIC INSURER'S  
CAPITAL.**

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

2        **Section 1. Legislative Statement:** The Fourth Guam Legislature enacted  
3        §43166(e) Chapter II, Article I of the Government Code in order to protect a  
4        domestic insurer from becoming insolvent by failure to diversify its investments in  
5        a financially prudent manner. The purpose of this provision was to ensure these  
6        investments yield a steady income which can be readily converted to cash to allow  
7        domestic insurers to promptly pay claims and all short and long term obligations to  
8        its vendors. With a small banking community investing heavily in building a  
9        postwar economy and operating in virtual isolation, The Fourth Guam Legislature  
10       found it necessary to place these investment restrictions on domestic insurers.  
11       However, since the enactment of Public Law 4-102 nearly forty years ago, Guam's  
12       economy has changed significantly and its financial investment climate has  
13       dramatically improved. With the lifting of the security clearance, the influx and  
14       establishment of financially strong banking and lending institutions, and the advent  
15       of electronic banking, Guam's banking industry has grown and flourished. It is  
16       now operating under significantly higher levels of capitalization and assets as well

1 as international, national and local banking regulations that provide adequate  
2 protections for relatively safe investments.

3 In the past forty years, domestic insurers have also experienced an increase in  
4 the amounts of its capital and surplus that must be invested. These increases and  
5 the changes in Guam's banking industry have made it increasingly difficult for  
6 domestic insurers to comply with the 10% limitation imposed by §43166(e)  
7 without compromising their ability to maximize their returns on their investments  
8 and deposits.

9 It is the Legislature's intent to amend the law to allow domestic insurers the  
10 flexibility to more profitably manage their investments and to provide adequate  
11 provisions to ensure that there are no increases in risks associated with this  
12 flexibility.

13 **Section 2.** Subsection (e) 43166 of the Government Code is amended to read:  
14 "§43166 (e) Not more than ten percent (10%) of an insurer's capital and surplus  
15 may be invested in or loaned upon the security of any one person, nor loaned upon  
16 the security of any one parcel of property; provided, however, that there shall be a  
17 fifty percent (50%) limitation of the total amount of an insurer's capital and  
18 surplus that may be invested and/or deposited in any bank that provides evidence  
19 to the domestic insurer that they have met each of following requirements:

20 (i) it is insured by the Federal Deposit Insurance Corporation (FDIC) or  
21 meets the minimum levels of capital to asset ratio measurers for Tier One  
22 and Tier Two capital as established by the Bank of International Settlement  
23 and are licensed and authorized to transact business in the territory of  
24 Guam;

25 (ii) it has been licensed and authorized to do business in the territory of  
26 Guam for a period of at least five (5) consecutive years; and

1 (iii) the total amount of its deposits from all domestic insurers shall not  
2 exceed ten percent (10%) of its total assets.

# ECONOMIC-AGRICULTURAL DEVELOPMENT AND INSURANCE COMMITTEE REPORT

on

## Bill 948

An act to amend Sub-Section 43166(e) of the Government Code relative to investment of insurers capital.

### I. OVERVIEW

The Committee on Economic-Agricultural Development and Insurance having jurisdiction over insurance matters and having been referred Bill 948 conducted a public hearing on Thursday, April 28, 1994 in the Public Hearing Room, Legislative Temporary Building in Agana. Notice was published in the Pacific Daily News. Chairman, Ben Pangelinan presided and the following members were present: Vice-Chair Tom Ada and Sens. Felix Camacho, Frances Santos and Thomas V.C. Tanaka.

### II. SUMMARY OF TESTIMONY

#### A. *From written testimony.*

Bank of Guam President and CEO Anthony A. Leon Guerrero submitted written testimony in favor of Bill 948. In his statement Mr. Leon Guerrero said the existing law is obsolete and counterproductive. While existing provisions served to protect the interests of the insured in years past, there is no longer any substantial gain to be had by continuing the restrictions on eligible investments. He stated the FDIC insurance held by most banks on Guam make the current limitations of the law unnecessary. In so far as the deposits in question are short-term in nature (less than one year), Mr. Leon Guerrero stated such investments are not subjected to any increasing risk by the passage of Bill 948.

Hongkong Bank Senior Vice-President and Manager Robert A. Morris submitted written testimony on Bill 948. In his statement, Mr. Morris said limiting domestic insurers to authorized federally insured banks would unnecessarily restrict the insurer's investment options. He stated the financial health of the deposit taking institution should be looked at carefully when the investment exceeds the \$100,000 FDIC insurance cap.

He stated Hongkong Bank is not FDIC insured because local deposit taking restrictions on foreign banks make it not worthwhile. However, the bank's parent company HSBC Holdings plc, has assets in excess of \$300 billion, is regulated by the Bank of England and has a Tier I ratio of 7.9%, in considerably in excess of Bank of International Settlement's requirement of 4% under the Basle Agreement.

Mr. Adrienne Aguirre, Vice-President and Managing Director of Zurich Insurance (Guam), Inc. submitted written testimony in favor of Bill 948. Mr. Aguirre stated as a domestic insurer which has a gross premium volume of around \$25 million, Zurich Inc. is adversely affected by Section 43166 (e) of the Government Code. Bill 948 provides more flexibility in managing Zurich's funds, offering more opportunity for more profitable investments without additional related risks.

#### B. *From Oral Testimony Before the Committee.*

Mr. Don Davis, of Davis and Associates, appeared before the Committee and testified in favor of Bill 948. He stated he is the fund manager for Zurich Insurance

which currently receives premiums from group health insurance and premiums from automobile insurance, approximately \$24 million annually. The Zurich Insurance company reinsures most of these coverages but the funds are held in three banks in Guam, mostly the Bank of Guam, and in 30 day certificates of deposit. Mr. Davis stated under the current law, 30 day CDs are considered investments and the most that could be put into any single bank would be between 100 and 200 thousand dollars.

Mr. Davis stated interest rates for investments in these amounts are very small. He stated if fund managers are allowed to invest more than the two hundred thousand increments then they'll be able to earn a better investment rate. Bill 948 would remove the confines in Zurich's investment strategies. Mr. Davis stated he favors the bill because it allows domestic insurers the same privileges as non-domestic carriers which are allowed to put their money any place they want.

Senator Ada asked what is the difference between domestic and non-domestic insurers and does the latter have greater flexibility? Mr. Davis stated there are currently 4 domestic insurance companies that are formed here on Guam: Zurich Insurance Co. Guam, Inc.; HML; NPI; and Pacific Indemnity. He stated to his knowledge all other companies are either a foreign insurance company or an alien insurance company, meaning that it either comes from the US or it comes from Japan or Korea or some place else.

Mr. Davis stated Nanbo Insurance is an agency which represents the Tokyo Marine Insurance Co. out of Tokyo Japan, and is an alien insurer. Alien insurers are able to take their premium funds and have wider flexibility to invest it and maximize their returns on those investments.

Senator Ada asked by giving this flexibility to the domestic insurers, what kind of benefits might that reflect? Would that reflect any kind of benefits to the consumers? Mr. Davis answered lower premiums could be a benefit resulting from the flexibility - the greater the return on the investment the more the insurers are able to off set any bad experience by investment income.

Senator Ada asked for an example to illustrate what opportunities may open up for the domestic insurer? Mr. Davis stated under the current law, Zurich is only allowed to keep as a 30 day certificate deposit or a 60 day, or 90 day or however many they can only put a \$100,000.00 at the BOG, or \$200,000.00 at the BOG. The BOG at a \$200,000.00 certificate of deposit is give 3.2 or 3. or 2.78 whereas if the Zurich were able to walk into the BOG and say here is \$4.5 million -- the rates increase to 3.25, 3.5, providing a better investment return.

Senator Ada asked is there some kind of institutional limitation as to how much money can be put into a 30 day CD account? Mr. Davis stated No, the current Guam law limits the Zurich from putting that much money into the BOG. Senator Ada asked what is the rationale and Mr. Davis stated he did not know.

Senator Tanaka asked what law restricts only \$100,000.00 in investment? Mr. Davis stated the current insurance law states the insurer may only put 10% ten percent of its capital may be loaned or invested in any one piece of real estate, financial institution, etc. Zurich is capitalized currently at \$1 million, the annual premium is \$24 million, much of this is paid to reinsurance companies off island and they hold those funds. For a period of time, however, Mr. Davis stated he is responsible for maintaining a portion of the fund, approximately \$4 million on island because of the need to have a readily available and steady cash flow to pay claims.

Mr. Davis stated the current law restricts him from investing the entire \$4 million on island. With 6 to 8 banks on island, Mr. Davis stated he is forced to invest a significant balance of the Zurich funds off-island which is time consuming and more costly. Senator Tanaka stated the rationale for the current law is to meet the short term investment needs of the insurance industry to ensure cash is readily available to pay claims promptly. Mr. Davis affirmed. He stated because Zurich cuts between \$2 to \$2.5 million in checks towards the end of the year, that is why he does not put their funds in

long term treasury notes. He stated however, at the beginning of the year, Zurich and their policy holders would benefit if they were allowed to invest in long term treasury notes.

Senator Tanaka asked if Bill 948 would remove that limit of one hundred thousand dollars? Mr. Davis affirmed. Senator Tanaka asked if Bill 948 retains the provision for short-term investment? Mr. Davis affirmed.

Senator Camacho stated by lifting the ten percent ceiling and providing for more investment flexibility, Bill 948 would also give insurers an incentive to investment their funds off-island. He asked would Mr. Davis if he would more than likely keep the funds on island because of ready accessibility? Mr. Davis affirmed. Senator Camacho stated his concern adding he would not want to see investment potential taken off-island should economic and financial conditions change. Mr. Davis stated the application of the current law actually requires him to invest off-island rather than on-island.

Chairman Pangelinan stated he believed the rationale for the investment limitations in the current law is to ensure that the insurance companies assets are not tied up in any one facility or financial instrument. Should the financial institution fail, it would really restrict the ability of that insurance company to pay its claims. By requiring insurers to diversify their investments: ie: 30% in stock portfolio investment; 30% in long term, 30% in income growth funds, policy holders need to have their claims paid promptly are protected. For short term cash management it doesn't make sense. He asked isn't the amendment in Bill 948 simply providing a cash management tool for insurers to maximize their investment returns, because they cannot depend on paying claims based on the investment income? Mr. Davis affirmed. He stated this provides a mechanism to hold the premiums pending payment of claims.

Chairman Pangelinan stated the rationale for the law is necessary to make sure the money is safe because of the smaller exposure. Chairman Pangelinan asked are there alien banks whose assets would dwarf all banks combined on the island? He asked what about the requirement that the institution be federally FDIC insured? This protection is also limited -- only up to \$100,000. Chairman Pangelinan asked would Zurich object to developing additional criteria other than FDIC insured institutions to provide additional flexibility?

Mr. Davis stated although he had no objections, he said the Zurich Insurance Company, the parent company is very conservative and looks very closely at the banks that they place their investments. He stated although some banks are not FDIC they are still inspected by federal regulators.

Representing the Department of Revenue and Taxation, Mr. John Carlos and Mr. John Camacho appeared before the Committee and submitted written testimony on behalf of the Insurance Commissioner, Mr. Joaquin Blaz. From his written testimony, Mr. Blaz agreed that domestic insurers are experiencing difficulty complying with the current 10% limitation. He stated he would support Bill 948 *provided* that the following four limitations be incorporated in the bill:

1. The bank must have been authorized to transact business in Guam for a minimum period of at least five (5) years.
2. The bank must have assets in the minimum amount of \$500 million.
3. The maximum amount that a domestic insurer may invest in any one bank licensed in Guam which is insured by FDIC should be limited to thirty-five percent (35%) of such insurer's capital and surplus.
4. Any deposit or investment in any bank in excess of the statutory requirement shall be subject to the prior approval of the Commissioner."

Mr. John Camacho stated the Insurance Commissioner's office has a responsibility to ensure the viability and solvency of insurance companies in Guam and has handled requests to exceed the \$100,000 ceiling on a case by case basis. He said the four

limitations are necessary to enable the insurance commissioner's office to fulfill its regulatory responsibilities and oversight on the insurance industry.

Chairman Pangelinan asked on item #3. When you say that the maximum amount the domestic insurer may invest in one bank licensed on Guam, which is insured by FDIC should be limited to 35%, given that we are now saying that we are putting a minimum on the assets of the bank at 500 million, shouldn't we just say "any bank which is licensed on Guam that has transacted on Guam for 5 years" and just take out the FDIC requirement?

Mr. Camacho stated the Commissioner is able to work with the federal government and determine the solvency of FDIC insured banks but the same is not necessarily applicable to foreign banks. He stated there are a few foreign banks in Guam that have substantial assets exceeding \$500 million, however, because they have limited authority and ability to transact business in Guam, they are not operating as a full service banking institution. He stated the Commissioner would need to assess each situation on a case by case basis.

Chairman Pangelinan asked if Guam requires foreign banks to list the assets of their parent companies like in the CNMI? For example, if Hong Kong Shanghai Bank files its banking statements with the banking Commissioner what ever reports are required for the local operations are they required to file the parent's also? Mr. Camacho stated the complete consolidation is filed just to see the overall size of the bank.

Chairman Pangelinan asked besides the filing of the local operations, is there also a consolidated statement that is required of the parent company? Mr. Camacho affirmed. He stated it is the same requirement that is applied to the insurance company, and their parent insurance companies.

Chairman Pangelinan asked if insurance companies collect premium payments and place them in 30-day CDs, are they considered as an investment or is it just considered a non-demand deposit? Chairman Pangelinan stated he thought they would be considered non demand deposit because of the time limitation. Mr. Camacho stated he did not know if the Commissioner's office would classify it a non-demand deposit or an investment.

Chairman Pangelinan stated some people would like that flexibility to be able to buy a 30 day note. It receives \$2 million in premiums or it accumulates \$2 million in premium before it has to make a payment for any off island reinsurance or any off island claims. It accumulates the premium payments, it exceeds 10% of its capital, and it has to put it somewhere. By law they have to shop, look at different banks. So if they were just to buy a 30 day CD note would that be considered an investment and would that be subject to the 10% limitation?

Mr. John Carlos stated because the statute indicates the word loan or investment, a 30 day CD might not fall into the investment category because its a cash, but a deposit does fall into the definition of a loan. Mr. Carlos stated all deposit does fall under the definition of a loan, including deposits for checking accounts. Chairman Pangelinan asked are all deposits subject to the 10% limitation? Mr. Carlos affirmed. He stated while the Commissioner's office recognizes the current statute can be amended, it does not want to give too much flexibility where the financial health of the insurer could be placed in jeopardy. Chairman Pangelinan asked how many domestic insurance companies are present in the Guam market? Mr. Camacho stated there are about five.

Mr. Camacho stated several areas in Guam's insurance statutes are archaic and need to be reviewed and updated. One such area is the issue of fund investments as it relates to capitalization. An insurer writing one line of insurance starts out with 25 thousand dollars in capitalization. The statute has a provision that limits investment to 10 percent of the insurer's capital and surplus. The Commissioner's office is suggesting that perhaps we should also start increasing the required capitalization, too. With this change, it will give the insurer more investment flexibility to invest funds and be able to stay within the proposed 35% limitation.



Chairman Pangelinan asked what is the capitalization of these domestic insurance companies? Are they basically operating at the minimum capitalization level? Mr. Camacho stated the last one that was approved by the Insurance Commissioner's office was \$2.5 million. The earlier insurers that were incorporated were capitalized at \$50,000. He stated more money needs to be put into capitalization. Chairman Pangelinan concurred. Mr. Camacho stated another related issue in need of reform has to do with settlement of claims. He stated these are just a few issues that the Insurance Commissioner's office feels needs to be looked at. Chairman Pangelinan concurred and said the committee would continue to work with the Commissioner's staff to address insurance matters.

Chairman Pangelinan asked how many banks on Guam have assets of \$500 million? Mr. Camacho stated probably no more than 6 if foreign banks and alien banks like Hongkong Shanghai Bank are excluded. He stated the newest territorial bank, Citizens Security would probably not meet the proposed \$500 million in assets requirement. Mr. Camacho stated the Commissioner's intention is not to isolate any bank with the proposed \$500 million in assets requirement. That is the reason for the Commissioner's last proposed amendment which requires approval from the Commissioner's office -- this provides more flexibility.

Chairman Pangelinan asked how does the Insurance Commissioner propose to handle as an example: a situation where an insurance company is capitalized at \$2 million and collects \$10 million in premiums? Mr. Camacho stated the Commissioner's office would review the insurer's request to approve their fund investment plan. Chairman Pangelinan asked would the company be given an opportunity to place those funds, in excess of the current 10% limitation of their capital or 35% as is currently being proposed by filing their investment plan with the Commissioner's office? Mr. Camacho affirmed. He added in the Commissioner's review of that filing, he may also ask that the insurer increase their capitalization because by increasing the capitalization, the insurer will also be increasing the amounts that can be invested within the proposed 35% limitation.

Senator Ada asked what is the difference between the 10% limitation referred to by the Insurance Commissioner's office and the \$100,000 limitation referred to by Mr. Davis? Mr. Camacho answered the \$100,000 limitation is the maximum amount of bank deposit that is insured by FDIC. The Insurance Commissioner's office found an instance where 10% of one insurer's capital exceeded \$100,000 and that insurer was concentrating its investments in one bank. The Commissioner felt that the insurer needed to spread those investments out and diversify its deposits. In the event that one bank fails, the insurer's deposits beyond the \$100,000 ceiling would have been lost.

Senator Ada asked whether under the Commissioner's suggested criteria #1, it would only be excluding Citizens Security? Mr. Camacho affirmed. Senator Ada asked whether under the application of Commissioner's suggested criteria #1 and #2 would that exclude any of the other banks, Bank Of Hawaii, BOG, FHB? Mr. Camacho stated from a regulatory standpoint, the Commissioner's office has looked at some financial statements that indicates some banks have surpluses in the hundreds of billions of dollars. If one looks at some of the investment schedules, one can see the ranges being between \$10 million or \$13 million. He stated there must be some kind of restriction that doesn't allow concentrating such large amounts in just one area.

Senator Ada stated the objective would be to provide flexibility to prevent as much of Guam's insurers' fund investments from going off-island and being deposited into other banks.

Chairman Pangelinan stated the committee would refine the language in the bill so that most of the capital remains on island and to also ensure the safety and the liquidity of the insurance companies, so that they are able to meet with their obligations. Mr. Camacho stated the Commissioner's Office wants the industry to survive and they would like to see more companies stay around.

Francis Santos, representing Stay Well and Zurich as the administrator of the plan appeared before the Committee. Referring to the Commissioner's suggested criteria #4 where it says "any deposit must go for the final approval of the commissioner", Mr. Santos asked while Staywell doesn't object to the amendment, wouldn't the amendment make the process too time consuming? Mr. Camacho stated the amendment would not require an insurer to keep coming back for approvals.

Chairman Pangelinan asked, as an example, if an insurer goes with the 35% limitation of its capital and surplus and puts it all in one bank, investments over and above the 35%, could single approval for the year be given to that bank and insurance company rather than seek approval for every single deposit? Mr. Camacho affirmed.

Senator Ada asked is it also reasonable to assume that the flow of these premiums received are projected out and so prior to receiving those funds, the preliminary requirements for suggested criteria #4 could actually be done based on those projections, so as not to interfere with the movement of the funds? Mr. Santos stated Staywell cannot project the number nor the amount of claims. Staywell can project its cash flow anticipating premiums but in anticipation of a huge claim we can say "probably this month we will get so much but we may get some shock claims which requires us to tap into our cash reserves." The intent of the bill I fully support and that is why we are here, but I think that one of our concerns because of the nature of the Zurich Company is super conservative, they themselves have set guide lines to us as to what banks we can put the money in, it is their money.

Chairman Pangelinan stated with some fairly flexible but easily defined conditions put in, an insurance company would be able to make its own judgments as to where they will invest. He stated the objective of the policy amendment is to make sure that the level of conservatism is such that we are satisfied with regards to the ability of the bank to withstand the demands that are going to be placed on it, depending on the investment made with that institution.

Mr. Carlos stated the law indicates there are no limitations for other avenues of investments such as government of Guam revenue bonds and US Treasury bonds. Under those kind of investments there are no restrictions, and one can invest as much money as one wants. They can be traded at a moments notice, a months notice or two months notice in the market and if an insurance company's balance sheet cannot make any allowance or projecting for investing its funds in bonds where the yield is much higher, then it is possible that its capitalization needs to be raised in relation to the amount of premium and the amount of risk that the insurer is writing.

Chairman Pangelinan stated another factor to consider is when one trades those bonds before its maturity dates, one incurs costs on those trades and often has to pay a premium in order to sell that bond, so one can actually end up losing money on that investment. I.E. if you buy a 7 year bond at a discount rate of 98 and then you have to sell it in 2 years you may have to sell that bond at 96 rather than 100, because it is like an early call and you have lost the 2 years of interest because you have collected that. So in those situations it may end up costing money in order to be able to liquidate.

Chairman Pangelinan stated that is why the committee is looking at this proposal (Bill 948) and the issue of flexibility and short term investments. The capital that needs to be retained will be invested in long-term investments. The issue facing the Committee is the surpluses that needs to be invested in short term investments to allow insurers to be able to tap into those short term notes in order to pay off unanticipated claims over and above the actual projections.

Chairman Pangelinan concurred with the Mr. Camacho's assessment that if an insurer finds himself tapping into his capital in order to pay claims then that is a signal for the Insurance Commissioner to come in as a regulator to say to the insurer, "Okay. You have to increase your capital or else you have to be able to provide an actuarial study that justifies your rates to continue the way they are operating or you are going have to raise your rates."

Chairman Pangelinan reiterated the issue before the Committee is how can investments on short term issues be maximized without costing money when they need to be liquidated and still safeguard the insured. Government bonds etc. for medium to long term investments definitely makes a lot of sense and the appropriate amount of capital that will not be tapped into for that kind of investment.

Mr. Santos asked would the Commissioner be opposed to exempting those portions of Staywell's fund investments that are primarily placed in 30-day CDs considering the unique type of claim situations experienced by Staywell? He stated Staywell prefers not to go beyond 30-day CD type of investments. Mr. Camacho stated he would raise the question to the Insurance Commissioner.

Mr. Santos stated Staywell is gravely concerned about the turn around time to obtain approval from the Commissioner for its fund investment schedules. Staywell normally does not invest in treasury notes nor in government bonds.

### III. FINDINGS AND RECOMMENDATIONS

- That domestic insurers should be provided flexibility in maximizing their returns and managing the investment of their capital and surplus.

It is the established policy of the Territory to regulate the insurance industry in order to protect the public interest. Guam's insurance laws are intended to protect the solvency and the liquidity of insurers. Balancing these two concerns requires that insurers be provided flexibility in making investments without compromising the financial integrity and increasing the risk associated with these investments. The 10% limitation imposed by §46133 (e) of the Government Code was enacted to ensure that insurers properly diversify their investments do not unduly risk the resources of the insurance by overexposure in a single investment or institution.

Over the years, the insurance market has undergone significant growth and change. Insurers must compete for premiums by offering a wider range of coverage and benefits to policyholders. In order to remain competitive, insurers must work to maximize the returns on their capital. Investment income can then be used to defray the increases in their cost of operations and thus hold the rates increases to consumers. In some instances, the demand, savings and time deposits of some insurers with banks licensed in Guam have exceeded the 10% limitation of the current statute.

Simultaneously, Guam has also experienced growth and stability in its banking industry. The industry's capacity for investments and deposits is backed by increasingly higher levels of capitalization and assets which are carefully monitored and regulated by international, federal, and local banking laws. The Federal Deposit Insurance Corporation (FDIC) and the Bank of International Settlement were established to provide financial, standards that are accepted by regulators to determine the financial strength of banks. The amendments that are being proposed to increase the opportunity for local insurance companies to keep their capital and surplus in local banks represents a source of revenue for Guam's banking industry which can also provide added benefits to the island's economy.

In applying the current 10% limitation to investments and deposits in banking institutions, this statute prevents local insurance companies from keeping the substantial portion of their capital and surplus in local banks, without regards to the ability of the local banks financial capabilities to safely absorb these monies

Section 2 of Bill 948 sets no limit on the amount of capital and surplus that can be invested and deposited in banks. While the Committee recognizes the need to provide some measure of relief to insurers, it also recognizes that any statutory amendments must conform to established public policy. Protections must be made to

ensure that there are no increase risks associated with this flexibility. The Committee recommends the following substitute language:

**Section 2.** Section 43166 (e) of the Government Code is amended to read:

"§43166 (e) Not more than ten percent (10%) of an insurer's capital and surplus may be invested in or loaned upon the security of any one person, nor loaned upon the security of any one parcel of property; provided, however, that there shall be a fifty percent (50%) limitation of the total amount of an insurer's capital and surplus that may be invested and/or deposited in any bank that provides evidence to the domestic insurer that they have met each of following requirements:

- That certain qualifying restrictions should be mandated for banks receiving the deposits of a domestic insurer's capital and surplus.

The Committee finds it is in the public's interest to uphold the established public policy that an insurer's investments be made conservatively and that insurers properly diversify their investments to the risk associated with overexposure in investments in a single financial institution or instrument. In order to comply with this established public policy, the Committee is recommending the following qualifying restrictions be mandated for any bank providing security for investments and deposits of an insurer's capital and surplus:

(1). it is insured by the Federal Deposit Insurance Corporation (FDIC) or meets the minimum levels of capital to asset ratio measurers for Tier One and Tier Two capital as established by the Bank of International Settlement and are licensed and authorized to transact business in the Territory of Guam; (2) it has been licensed and authorized to do business in the Territory of Guam for a period of at least five (5) consecutive years; (3). the total amount of its deposits from all domestic insurers shall not exceed ten percent (10%) of its total assets:"

The Committee on Economic-Agricultural Development and Insurance does hereby report out Bill 948 with a recommendation TO DO PASS as amended by the Committee.



March 29, 1994

Committees:

CHAIRPERSON:

Rules

VICE CHAIRPERSON:

Ways & Means

MEMBER:

Economic-  
Agricultural  
Development,  
and Insurance

Education

Electrical  
Power and  
Consumer  
Protection

Federal and  
Foreign Affairs

General  
Governmental  
Operations and  
Micronesia Affairs

Health,  
Ecology and  
Welfare

Judiciary  
and  
Criminal Justice

Tourism and  
Transportation

Youth, Senior  
Citizens and  
Cultural Affairs

## MEMORANDUM

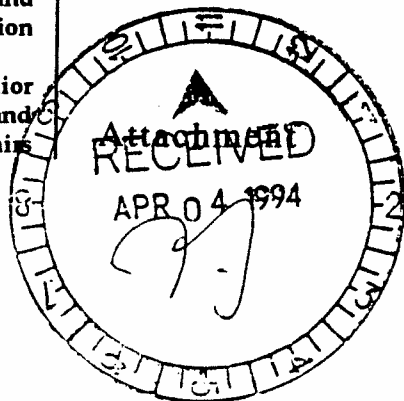
**TO:** Chairperson, Committee on Economic-Agricultural  
Development and Insurance

**FROM:** Chairperson, Committee on Rules

**SUBJECT:** Referral - Bill No. 948

The above Bill is referred to your Committee as the principal committee. Please note that the referral is subject to ratification by the Committee on Rules at its next meeting. It is recommended you schedule a public hearing at your earliest convenience.

  
**HERMINIA D. DIERKING**



TWENTY-SECOND GUAM LEGISLATURE  
Second (1994) Regular Session

Bill No. 948  
Introduced by:

V. C. Pangelinan  
C. T. C. Gutierrez  
T. C. Ada

AN ACT TO AMEND §43166 (e) OF THE GOVERNMENT  
CODE RELATIVE TO INVESTMENTS OF INSURER'S  
CAPITAL.

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

2 Section 1. Legislative Statement: The Fourth Guam Legislature  
3 enacted §43166(e) Chapter II, Article I of the Government Code in order to  
4 protect against a domestic insurer becoming insolvent by failing to  
5 diversify its investments. Since the enactment of Public Law 4-102, the  
6 economic realities of Guam have significantly changed. With the advent of  
7 electronic banking and with the influx of financially strong banking  
8 institutions into the Territory of Guam, there is no reason to restrict a  
9 domestic insurer's ability to compete with foreign insurers nor is there any  
10 reason to limit a domestic insurer's ability to maximize its capital by  
11 permitting the investment or deposit of its funds within federally insured  
12 banks who are authorized to do business on Guam. In order to allow  
13 domestic insurers to more profitably manage their money without any  
14 increase in risk associated with this flexibility, the Legislature finds that  
15 the current restrictions found in §43166(e) should be amended to permit

1 domestic insurers the freedom to place their funds in federally insured  
2 banks as they deem financially prudent.

3 Section 2. Government Code §43166(e) is hereby amended to read:

4 "(e) Not more than ten percent (10%) of an insurer's capital may be  
5 invested in or loaned upon the security of any one person, nor loaned upon  
6 the security of any one parcel of property; provided, however, that there  
7 shall be no limitation of the amount of an insurer's capital which may be  
8 invested and/or deposited in any bank which is insured by the Federal  
9 Deposit Insurance Corporation and which is authorized to transact business  
10 in the Territory of Guam."



DEPARTMENT OF

# REVENUE & TAXATION

GOVERNMENT OF GUAM

JOSEPH F. ADA  
Governor

FRANK F. BLAS  
Lieutenant Governor

JOAQUIN G. BLAZ, Director • V.M. CONCEPCION, Deputy Director

APR 28 1994

Honorable Vicente C. Pangelinan  
Chairman, Committee on Economic-Agricultural  
Development and Insurance  
Twenty-Second Guam Legislature  
Agana, Guam 96910

Dear Mr. Chairman and Members of the Committee:

My name is Joaquin G. Blaz. I am the Director of the Department of Revenue and Taxation and the Ex-Officio Insurance Commissioner. I welcome this opportunity to comment on Bill 948:

**AN ACT TO AMEND SECTION 43166 (e) OF THE GOVERNMENT CODE  
RELATIVE TO INVESTMENTS OF INSURER'S CAPITAL.**

Government Code Section 43166 specifies how much percentage of each domestic insurer's capital can be invested in real estate, bonds, United States treasury bonds, stock issued by any Federal home loan bank or loan upon the security of any one person.

The purpose is to make sure insurers invest its capital conservatively, in investments that will yield a steady income and at the same time be easily convertible to cash to pay all claims as well as short term and long term obligation to vendors.

An insurer may invest its capital in any of the following investments without any limitation:

1. Interest bearing bonds, notes or obligations of the United States, or any political subdivision of the United States or any incorporated city of the United States provided that there has been no default of either the principal or interest for a period of fifteen (15) years preceding the dates of such investment.
2. Stock issued by any Federal home loan bank of which such insurer may be eligible to become a member: bonds, debentures and notes issued by any Federal home loan bank.

Any depositor including any insurance company depositing funds with a bank insured by Federal Deposit Insurance Corporation (FDIC) is insured only up to \$100,000.00. [(PL 102-242, Section 311(b)(1)(a)(B)].

"The invested assets of an insurer are evaluated to determine the impact of these investments on the surplus if the sale of these assets had to occur unexpectedly. The higher the liquidity,



diversification and/or quality of the assets, the less uncertainty in the value to be realized upon their sale. Therefore, a review of a company's invested assets is performed to identify a lack of diversification among industries or geographic regions, with particular attention paid to large single investments that exceed 10% of a company's surplus." (Best Insurance Reports, 1993 Edition, page X).

The above criteria of A M Best in evaluating the solvency and liquidity of insurance companies, appropriately explains the rationale for the 10% limitation imposed by Guam's statute on the capital and surplus of an insurance company.

I understand that domestic insurers find it hard to comply with Government Code of Guam, Section 43166 (e). In particular, the demand, savings and time deposits of some domestic insurers with banks licensed in Guam exceeded the 10% limitation of the statute.

I agree that FDIC insured banks are relatively safe investments. However, the proposed amendment provides no limitation whatsoever to domestic insurers in placing their deposits with any bank licensed in Guam that is insured by FDIC. In effect this statute will allow an insurer to place all the company's eggs in one basket. From a regulatory perspective, prudence is the watchword.

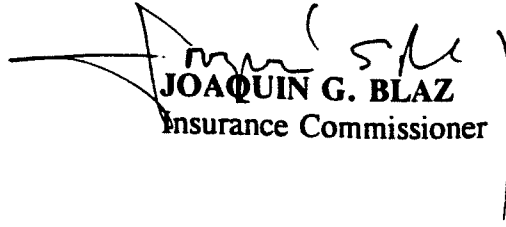
Let me illustrate. Assume that XYZ Insurance Company is incorporated in Guam with a capital of \$100 Million. Under the proposed law, XYZ Insurance placed a \$100 Million deposit with ABC Bank, an FDIC insured bank that is licensed in Guam. An earthquake occurred. The losses of XYZ insurance totaled \$300 Million. To pay the claims, XYZ Insurance is forced to withdraw all \$100 Million deposit with ABC Bank. Let us assume that ABC Bank has \$150 Million in assets. I leave it to your imagination whether or not ABC Bank can meet all cash withdrawals of XYZ Insurance and withdrawals of other depositors.

Taking these possibilities into consideration, I respectfully propose that the following limitations be incorporated in Bill 948 :

1. The bank must have been authorized to transact business in Guam for a minimum period of at least five (5) years.
2. The bank must have assets in the minimum amount of \$500 Million.
3. The maximum amount that a domestic insurer may invest in any one bank licensed in Guam which is insured by FDIC should be limited to thirty-five per cent (35%) of such insurer's capital and surplus.
4. Any deposit or investment in any bank in excess of the statutory requirement shall be subject to the prior approval of the Commissioner.

We will support Bill 948 if the foregoing proposals are incorporated in the bill.

Sincerely,

  
**JOAQUIN G. BLAZ**  
Insurance Commissioner



**ZURICH**  
INSURANCE (GUAM), INCORPORATED

27 April 1994

The Honorable Senator Vicente C. Pangelinan  
Twenty-Second Guam Legislature  
Government of Guam  
Agana, Guam 96910

Re: An Act to Amend Section 43166 (e) of the Government Code  
Relative to Investments of Insurer's Capital

Dear Senator Pangelinan:

Zurich Insurance (Guam), Incorporated, as a domestic insurer which has a gross premium volume of around US\$25 million as at 31 December 1993, is being adversely affected by section 43166 (e) of the Government Code in its present form.

As part of its prudent financial management, Zurich Insurance places some funds with Bank of Guam and Citibank in short-term Time Certificate of Deposit (30-day TCDs). It is not comfortable in doing so because the subject law has no clear definition as to what an investment is - i.e. whether a 30-day TCD is considered as an investment. The present law also restricts our choice on how to manage our funds.

We are therefore giving your bill our support because it replaces the present ambiguous law. It offers Guam insurers in general, including Zurich Insurance in particular the flexibility needed to properly manage funds in the course of their operation on Guam. It offers opportunity for a more profitable investments without additional related risks.

Respectfully yours,

Zurich Insurance (Guam), Incorporated

Adrienne Aguirre  
Vice President & Managing Director

# HongkongBank

Member HSBC Group

The Hongkong and Shanghai Banking Corporation Limited  
436 So. Marine Drive, Tamuning, Guam 96911 U.S.A.

CONFIRMATION

VIA FACSIMILE  
(671) 472-3556

August 31, 1994

OUR REF: GUM COR 940598

The Honorable Vicente C. Pangelinan  
Chairman, Committee on Economic-  
Agricultural Development & Insurance  
Twenty-Second Guam Legislature  
130 Aspinall Avenue, Suite 101  
Agana, Guam 96910



REFERENCE: BILL NO. 948  
AN ACT TO AMEND SECTION 43166 (e) OF THE GOVERNMENT  
CODE RELATIVE TO INVESTMENTS OF INSURER'S CAPITAL

Dear Senator Pangelinan:

Further to my letter of 30 August 1994 (reference GUM COR 940595), the Bank of International Settlement (BIS) figure for the minimum Tier II capital asset ratio is 8.0%, not 7.9%. I apologise for this error.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Robert A. Morris".

ROBERT A. MORRIS  
Senior Vice President and Manager

*Incorporated in Hong Kong with limited liability*  
P.O. Box 27C, Agana, Guam 96910 • Telephone: (671) 646-3757-62 • Cables: Hongbank  
Telex: 6309 • Fax: (671) 646-3767

*Please address all letters to The Manager*

# HongkongBank

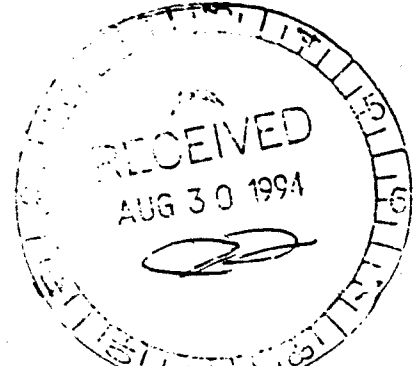
Member HSBC Group

The Hongkong and Shanghai Banking Corporation Limited  
436 So. Marine Drive, Tamuning, Guam 96911 U.S.A.

August 30, 1994

OUR REF: GUM COR 940595

The Honorable Vicente C. Pangelinan  
Chairman, Committee on Economic-  
Agricultural Development & Insurance  
Twenty-Second Guam Legislature  
130 Aspinall Avenue, Suite 101  
Agana, Guam 96910



**REFERENCE: BILL NO. 948  
AN ACT TO AMEND SECTION 43166 (e) OF THE GOVERNMENT  
CODE RELATIVE TO INVESTMENTS OF INSURER'S CAPITAL**

Dear Senator Pangelinan:

Further to my letter of 21 April 1994, I would respectfully suggest that non-FDIC banks could be considered for placement of insurers' capital subject to their meeting certain standards of balance sheet strength. I would recommend that two measures should be used.

Firstly, a measure of the financial strength of the investment receiving bank to determine whether it is sufficiently sound:

### The Capital:Asset Ratio of the Bank

Similar to any company, the greater percentage of a bank's assets that is financed by capital the more financially sound the bank is considered to be (since unlike a deposit base, capital cannot be withdrawn). The most accepted way to define this capital:asset ratio is the definition of the Bank of International Settlement (BIS). BIS has two measures of the ratio, based on two different definitions of Capital, Tier One and Tier Two. The former adopts a more conservative view of what comprises capital, and therefore Tier One capital ratios are always equal or lower than Tier Two capital ratios. BIS requires that banks meet a certain level of capitalisation under each measure - Tier One at least 4%; Tier Two at least 7.9%. These two measures have come to be regarded as the minimum levels of Capital:Asset ratio that a bank should have if it is to be regarded as sound. Since banks have to report these ratios to the BIS, all banks should be able to provide their Tier One and Tier Two capital ratios.

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Telex: 6309 • Fax: (671) 646-3767

*Please address all letters to The Manager*

Letter to Senator Ben Pangelinan  
OUR REF: GUM COR 40595  
30 August 1994  
/...2

Should you require any further information on this matter, I would be glad to ask my head office to forward me details.

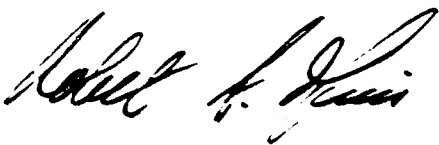
Secondly, a measure to determine the maximum amount of investment that can be placed with a particular bank:

The Aggregate Insurance Deposit:Asset Ratio

Insurance companies should not be prevented from placing deposits with small banks so long as the banks meet the capital:asset ratio detailed above. However the size of the deposits so placed should be limited to a percentage of that bank's assets, say 5%, regardless of the size of the bank. Otherwise, no matter how well capitalised, the sudden withdrawal of a major part of that bank's deposit base would put the bank into an acutely vulnerable position. Furthermore, the maximum deposit amount should be determined as an aggregate of all insurance companies, since in the event of a serious natural disaster on Guam it is likely that all insurance companies will have the need to call upon their capital simultaneously.

I hope that the above is of use. Please do not hesitate to contact me should you have any questions or require any further details on the BIS regulations.

Yours sincerely,



ROBERT A. MORRIS  
Senior Vice President and Manager

# HongkongBank

The Hongkong and Shanghai Banking Corporation Limited  
436 So. Marine Drive, Tamuning, Guam 96911, U.S.A.

April 21, 1994

OUR REF: GUM COR 940336

The Honorable Vicente C. Pangelinan  
Chairman, Committee on Economic,  
Agricultural Development & Insurance  
Twenty-Second Guam Legislature  
130 Aspinall Avenue, Suite 101  
Agana, Guam 96910

REFERENCE: BILL NO. 948  
AN ACT TO AMEND SECTION 43166 (e) OF THE  
GOVERNMENT CODE RELATIVE TO INVESTMENTS OF  
INSURERS' CAPITAL

Dear Senator Pangelinan:

Further to the above Bill, I believe that limiting domestic insurers to authorised Federally insured banks would unnecessarily restrict the insurer's investment options. As we all are aware, Federal insurance will only cover deposits up to USD100,000. For situations where the depositor is investing materially more than USD100,000, the financial health of the deposit taking institution becomes critical.

For instance, HongkongBank is not FDIC insured in Guam because local deposit taking restrictions on foreign banks make it not worthwhile. However, HongkongBank is a wholly owned subsidiary of HSBC Holdings plc, one of the largest and most strongly capitalised banking and financial services groups in the world. The group is regulated by the Bank of England, and has as at 31 December 1993, assets in excess of USD300 billion, shareholder funds of nearly USD14 billion, and in 1993 made a profit before dividends of over USD2.5 billion. Furthermore, it has a Tier 1 capital ratio of 7.9%, considerably in excess of Bank of International Settlement's requirement of 4% under the Basle Agreement.

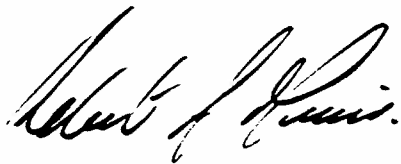
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Telex: 6309 • Fax: (671) 646-3767

*Please address all letters to The Manager*

Letter to Senator Ben Pangelinan  
OUR REF: GUMCOR 940336  
21 April 1994  
/...

I enclose copies of the financial statements of HongkongBank and HSBC Holdings plc for your further interest. If you should have any questions, please feel free to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Robert A. Morris". The signature is written in a cursive style with a large, sweeping initial "R".

ROBERT A. MORRIS  
Senior Vice President and Manager

Enclosure



ANTHONY A. LEON GUERRERO

President  
and  
Chief Executive Officer



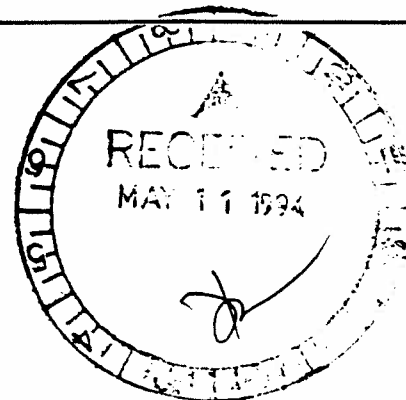
**Bank of Guam**

"The People's Bank"

MEMBER OF THE FEDERAL  
DEPOSIT INSURANCE CORP.

P. O. Box BW  
Agana, Guam 96910  
Tel: 472-8865/6/7

May 9, 1994



The Honorable Senator Vicente C. Pangelinan  
Chairman, Committee on Economic-Agricultural  
Development and Insurance  
Twenty-Second Guam Legislature  
130 Aspal Avenue, Suite 101  
Agaña, Guam 96910

Dear Senator Pangelinan,

I regret that I was unable to attend the Public Hearing concerning Bill 948 and its proposed amendment of the law governing eligible investments and deposits for Guam's domestic insurance companies. Nevertheless, I would like to submit my views on the subject for the record, and lend my support to the passage of the subject legislation.

The Legislative Statement in §1 of the Bill could not have been better put: too often, laws that were sound and necessary when they were designed for Guam's infant economy become overburdening now that the economy has become more dynamic and better able to withstand the pressures of a competitive world. Among these, the restrictions on the eligible assets of Guam's insurance companies and the proportional investment in any one or group of these assets have interfered with the generation of income and the formation of wealth for our people. Further, our financial specialists have become far more sophisticated over the years, and are quite capable of allocating their investment funds without artificial constraints imposed by the rule of law.

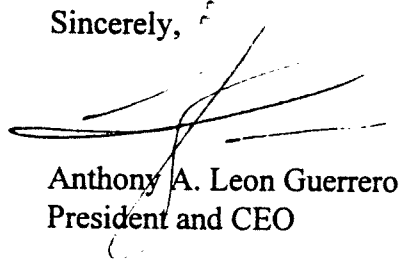
The existing provisions of Guam's insurance law serve only to ensure that domestic insurers devote the bulk of their funds to the support of the growth and development of communities outside of Guam, draining funds from the local economy and artificially hindering capital formation here. While this served to protect the interests of the insured in years past, there is no longer any substantial gain to be had by continuing the restrictions on eligible investments. After all, the FDIC-insured banks in Guam no longer stand alone and independent, but have national and international ties throughout the financial community. Contrary to the common perception of some people, we do not hold their funds in shoe boxes with their names attached in our vault. We have access to sources of liquidity which are more than adequate to meet the immediate funding needs of any prudent insurer's deposits or investments, so that the risk associated with those deposits and investments is parallel to the risk of world financial networks collapsing; that is to say, the risk is virtually nonexistent. Furthermore, the protection that the FDIC affords goes well beyond the mere insurance of deposits. The agency comprehensively scrutinizes the safety

and soundness of the institutions they insure, inclusive of the quality of management as well as the way the institution is managed. In so far as the deposits in question are short-term in nature (less than one year), I don't feel that they are subjected to any increasing risk by the passage of this legislation.

More importantly, the protections afforded by the FDIC insurance held by most banks in Guam make the current limitations of law unnecessary; investments and deposits in Guam's banks are just as secure as similar investments and deposits in any other bank in the United States. A prudent financial manager for an insurance company is certainly better prepared to assess this security than the law implies, and overriding the judgment of specialists who have a clear and present interest in protecting the assets of the insurance company by statute only serves to frustrate that judgment and diminish the volume of funds available to support the economic well-being of the people of Guam. The existing law, then, is not only obsolete; it is counterproductive.

Thank you for soliciting my input on this important piece of legislation. I hope that my comments will be of use to you. Should you have any questions regarding the content of this letter or require additional information which you think I may be able to provide, please do not hesitate to contact me directly. Otherwise, I look forward to the speedy passage of Bill 948.

Sincerely,

A handwritten signature in black ink, consisting of several overlapping, fluid strokes that form the name Anthony A. Leon Guerrero.

Anthony A. Leon Guerrero  
President and CEO



# Trade firms blast Japan on imports

TOKYO (ASAHI NEWS SERVICE) — Trading companies criticized Japan's Food Agency for turning down their requests to import rice last month, the Asahi Shimbun, a leading Japanese newspaper, learned over the weekend.

The Food Agency rejected more than 10 applications from trading companies to import grains such as rice and wheat submitted during a 10-day period starting March 1, the companies said.

The agency has not explained exactly why the requests were rejected, but some applicants said it was protecting the interests of companies already authorized to import grains, at a time when grain trade is becoming more lucrative because of the partial opening of the rice market.

The agency said only that the rejections were handed down on the basis of "internal regulations."

Currently, 26 companies are authorized to import wheat and

"The reviewing of applications was over when I assumed my post, but I am confident that there was no arbitration and there is a legitimate reason."

— KYUZO SAITO  
chief of the Food Agency's Import Division

20 companies can import rice. Most are large trading houses, such as Mitsubishi Corp. and Matsui & Co.

The ongoing system, under which grain imports are limited to a handful of registered trading companies, was instituted in the 1950s when large quantities of rice were imported to cope with the postwar food shortages.

In the late 1990s, as Japan became self-sufficient in rice production, imports dropped to little more than that used in certain alcoholic beverages.

There have been few applications in recent years because newcomers were shut out, but anticipating more trade follow-

ing the opening of the rice market under the Uruguay Round of trade talks, the number of applications grew.

"The reviewing of applications was over when I assumed my post, but I am confident that there was no arbitration and there is a legitimate reason," said Kyuzo Saito, chief of the Food Agency's Import Division. He offered no alternative explanation, however.

Another high-ranking agency official, speaking anonymously, suggested there was strong opposition from already-registered trading companies to allow newcomers as grain importing becomes more profitable.

# Toyota settles safety flaw claim

WASHINGTON (GNS) — Toyota Motor Corp. will pay \$250,000 to settle claims the automaker misled federal safety regulators about fire safety related flaws in its 1981-89 Land Cruisers.

More than two years after insisting publicly that it did nothing wrong, Toyota conceded Monday that it failed to conduct a timely recall of 38,600 vehicles and agreed to pay the civil penalty to settle a Justice Department lawsuit filed in Washington.

The department cited eight instances in which Toyota allegedly failed to give regulators at the National Highway Traffic Safety Administration full and accurate information about the faulty Land Cruisers.

For example, Toyota told the agency in March 1991 that it was exploring an "unknown problem" — though it already had received scores of warranty claims and reports of fuel tank leaks.

Toyota denied that it misled regulators. The company settled the case "to avoid protracted and expensive litigation," spokesman Tim Andree said. "As far as NHTSA's contention that we were anything but cooperative, we pointedly disagree."

No accidents, injuries or deaths have been reported on the flawed Land Cruisers and current models have no defect, Andree said.

The agency "confused" Toyota data on different types of Land Cruisers, "which led to its misunderstanding" of the company's responses, he said.

Toyota is the second Japanese automaker to succumb recently to government demands after

contending it was right. Nissan North America Inc. recently agreed to buy back thousands of minivans after four recalls failed to solve a problem with fires in the engines.

The Toyota fine is the fourth largest the agency has collected. The biggest fine was \$500,000 paid in 1980 by Firestone Tire and Rubber Co. to settle charges that certain Firestone tires were faulty.

The government accused Toyota of violating a federal law requiring automakers to notify the government and the public if they become aware of a potential safety problem.

The Land Cruiser defect involved a part welded to the inside of the fuel tanks.

The agency said the part could break off and leave a hole through which fuel could escape, creating a fire risk.

Toyota recalled the vehicles in June 1991.

The company had told the agency it didn't know of leaks before the agency began investigating in July 1990.

But the agency later learned that scores of consumers had complained of leaks before the investigation. By August 1990, Toyota had received 690 complaints of leaks.

The agency believed that Toyota had quietly repaired some vehicles in a "secret warranty" program, without giving the notification required by law.



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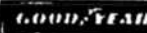
  

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## Notice of Public Hearing

Committee on Economic-Agricultural Development & Insurance

8:00 am Thursday, April 28, 1994

Public Hearing Room  
Guam Legislature Temporary Building  
155 Heiser St. Agaña, Guam

### AGENDA




- Bill 836 An act to add a new chapter to Title 17 of the Guam Business Code Annotated relative to the establishment of a business incubator program within the Guam Economic Development Authority.
- Bill 948 An act to amend §43166 (e) of the Government Code relative to investments of insurer's capital.
- Mark-up
- Bill 834 An act to amend certain sections of Title V, §63801, §63802, and §63803 of the GCA relating to the Agricultural Board of Commissioners.

Introduced

TWENTY-SECOND GUAM LEGISLATURE  
Second (1994) Regular Session

APR 11 '94

Bill No. 948 (10)  
Introduced by:

V. C. Pangelinan   
C. T. C. Gutierrez   
T. C. Ada 

AN ACT TO AMEND §43166 (e) OF THE GOVERNMENT  
CODE RELATIVE TO INVESTMENTS OF INSURER'S  
CAPITAL.

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

2 Section 1. **Legislative Statement:** The Fourth Guam Legislature  
3 enacted §43166(e) Chapter II, Article I of the Government Code in order to  
4 protect against a domestic insurer becoming insolvent by failing to  
5 diversify its investments. Since the enactment of Public Law 4-102, the  
6 economic realities of Guam have significantly changed. With the advent of  
7 electronic banking and with the influx of financially strong banking  
8 institutions into the Territory of Guam, there is no reason to restrict a  
9 domestic insurer's ability to compete with foreign insurers nor is there any  
10 reason to limit a domestic insurer's ability to maximize its capital by  
11 permitting the investment or deposit of its funds within federally insured  
12 banks who are authorized to do business on Guam. In order to allow  
13 domestic insurers to more profitably manage their money without any  
14 increase in risk associated with this flexibility, the Legislature finds that  
15 the current restrictions found in §43166(e) should be amended to permit

1 domestic insurers the freedom to place their funds in federally insured  
2 banks as they deem financially prudent.

3 **Section 2.** Government Code §43166(e) is hereby amended to read:

4 "(e) Not more than ten percent (10%) of an insurer's capital may be  
5 invested in or loaned upon the security of any one person, nor loaned upon  
6 the security of any one parcel of property; provided, however, that there  
7 shall be no limitation of the amount of an insurer's capital which may be  
8 invested and/or deposited in any bank which is insured by the Federal  
9 Deposit Insurance Corporation and which is authorized to transact business  
10 in the Territory of Guam."