



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

NOV 07 2001

The Honorable Joanne M. S. Brown
Legislative Secretary
I Mina'Bente Sais na Liheslaturan Guåhan
Twenty-Sixth Guam Legislature
Suite 200
130 Aspinal Street
Hagåtña, Guam 96910

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 94 (LS) "AN ACT TO ADD §§ 12111, 12112, 15704.1, 15704.2, 15705.1 AND 15711 TO TITLE 22 OF THE GUAM CODE ANNOTATED, RELATIVE TO INSURANCE LAWS ON GUAM" which was vetoed and subsequently overridden by i Liheslatura, the Legislature. This legislation is now designated as **Public Law No. 26-56**.

Notwithstanding the override, the previous objections to this legislation still stand:

"This legislation is opposed by many, if not all, of the banks doing business on Guam. There are provisions in this legislation which purport to prohibit banks from requiring insurance on assets that they lend money on, prohibit banks from comparing the financial strength of insurance companies, and requiring banks to pay a bond of \$25,000 to engage in licensed insurance activities. The legislation is in conflict with federal law on various banking subjects.

The bond requirement is especially ludicrous when considering the capital requirements that banks must meet, and is discriminatory since it is imposed on banks and not others.

Most especially, this legislation appears to allow insurance companies to do business on Guam that are not properly backed up by the required capital. This is a disservice to the public."

In addition to these objections previously made, it should be noted that although Senators Moylan and Calvo did not vote on the legislation, that the legislation is designed to benefit some insurance interests. The members of the legislature as a whole acceded in assisting the private interests of some members.

Very truly yours,

Carl T. C. Gutierrez
I Maga'Lahen Guåhan
Governor of Guam

Attachments: copy of bill for signed or overridden legislation

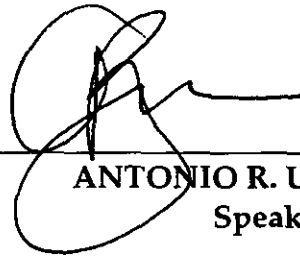
cc: The Honorable Antonio R. Unpingco
Speaker

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	
Time	10:38 am
Date	11/07/01

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session


CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 94 (LS), "AN ACT TO ADD §§ 12111, 12112, 15704.1, 15704.2, 15705.1 AND 15711 TO TITLE 22 OF THE GUAM CODE ANNOTATED, RELATIVE TO INSURANCE LAWS ON GUAM," returned without approval of *I Maga'lahen Guåhan*, was reconsidered by *I Liheslaturan Guåhan* and after such consideration, did agree, on the 5th day of November, 2001, to pass said bill notwithstanding the veto of *I Maga'lahen Guåhan* by a vote of ten (10) members.



ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 6th day of November,
2001, at 3:20 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session

Bill No. 94 (LS)

As substituted by the Committee
on Tourism, Transportation and
Economic Development and amended.

Introduced by:

A. L.G. Santos
F. P. Camacho
J. F. Ada
T. C. Ada
F. B. Aguon, Jr.
J. M.S. Brown
M. C. Charfauros
Mark Forbes
L. F. Kasperbauer
L. A. Leon Guerrero
V. C. Pangelinan
A. R. Unpingco
J. T. Won Pat

**AN ACT TO ADD §§ 12111, 12112, 15704.1, 15704.2,
15705.1 AND 15711 TO TITLE 22 OF THE GUAM
CODE ANNOTATED, RELATIVE TO INSURANCE
LAWS ON GUAM.**

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

2 **Section 1.** Section 12111 is hereby *added* to Article 1, Chapter 12, Division 2
3 of Title 22 of the Guam Code Annotated to read as follows:

4 **"Section 12111. Misrepresentations and False Advertising**
5 **Prohibited.**

6 (a) No person shall:

7 (1) make, issue, circulate, or cause to be made, issued
8 or circulated, any estimate, circular or statement

1 misrepresenting the terms of any policy issued, or to be issued,
2 or the benefits or advantages promised thereby, or the
3 dividends or share of the surplus to be received thereon;

4 (2) make any false or misleading statement as to the
5 dividends or share of surplus previously paid on similar
6 policies;

7 (3) make any misleading representation or any
8 misrepresentation as to the financial condition of any insurer,
9 or as to the legal reserve upon which any life insurer operates;

10 *or*

11 (4) use any name or title of any policy or class of
12 policies misrepresenting the true nature thereof.

13 (b) *Only* the words in the carrier's actual policy are
14 actionable, and falsely written advertisements by the carrier about its
15 actual policy shall *not* give rise to a cause of action against the carrier;
16 *provided*, the carrier, or its licensed representative, is *not* in violation
17 of Subsection (a) herein."

18 **Section 2.** Section 12112 is hereby *added* to Article 1, Chapter 12, Division 2
19 of Title 22 of the Guam Code Annotated to read as follows:

20 **"Section 12112. Twisting Prohibited.** No person shall make or
21 issue, nor cause to be made or issued, any written statement
22 misrepresenting or making incomplete comparisons as to the terms,
23 conditions or benefits contained in any policy for the purpose of inducing,
24 or attempting to induce, the policyholder to lapse, forfeit, surrender, retain,
25 exchange or convert any insurance policy."

1 **Section 3.** Section 15704.1 is hereby *added* to Article 7, Chapter 15, Division
2 of Title 22 of the Guam Code Annotated to read as follows:

3 **"Section 15704.1. Application for License.**

4 (a) A person applying for a resident insurance producer
5 license shall make application to the insurance commissioner on the
6 Uniform Application and declare under penalty of refusal,
7 suspension or revocation of the license that the statements made in
8 the application are true, correct and complete to the best of the
9 individual's knowledge and belief. *Before* approving the application,
10 the insurance commissioner shall find that the individual:

11 (1) is *at least* eighteen (18) years of age;

12 (2) has *not* committed any act that is a ground for
13 denial, suspension or revocation set forth in this Title;

14 (3) has paid the fees set forth in this Title; *and*

15 (4) has successfully passed the examinations for the
16 lines of authority for which the person has applied.

17 (b) A business entity acting as an insurance producer is
18 required to obtain an insurance producer license. Application shall
19 be made using the Uniform Business Entity Application. *Before*
20 approving the application, the insurance commissioner shall find
21 that:

22 (1) the business entity has paid the fees set forth in this
23 Title; *and*

24 (2) the business entity has designated a licensed
25 producer responsible for the business entity's compliance with

1 the insurance laws, rules and regulations of Guam.”

2 **Section 4.** Section 15704.2 is hereby *added* to Article 7, Chapter 15, Division
3 2 of Title 22 of the Guam Code Annotated to read as follows:

4 **“Section 15704.2. Licensing of Agents.**

5 (a) No person, corporation or bank shall act as an agent of
6 any: (i) local mutual aid association; (ii) local mutual burial
7 association; (iii) statewide mutual assessment corporation; (iv)
8 government mutual insurance company; (v) casualty company
9 writing accident and health insurance; (vi) health maintenance
10 organization; *or* (vii) any other type of insurance carrier licensed to
11 do business on Guam and which insurance carrier’s agents are
12 required to be licensed under the provisions of this Article, on the
13 date that this Chapter shall become effective; shall have first
14 procured a license from the Department as in this Article is provided,
15 *unless* that individual or entity, and no such insurance carrier shall
16 appoint any person, corporation, or bank shall have obtained a
17 license under the provisions of this Article; *and* no such person,
18 corporation or bank who obtains a license shall engage in business as
19 an agent *until* that individual or entity shall have been appointed to
20 act as an agent by some duly authorized insurance carrier designated
21 by the provisions of this Article, and authorized to do business on
22 Guam.

23 Any person, corporation or bank desiring to act as an agent of
24 any insurance carrier licensed to do business on Guam and writing
25 health and accident insurance may obtain a separate license as an

1 agent to write health and accident insurance; *provided*, such person,
2 corporation or bank complies with the provisions of this Article, and
3 has been appointed to act as an agent by some duly authorized
4 insurance carrier authorized to do health and accident insurance
5 business on Guam.

6 (b) No insurer or licensed insurance agent doing business on
7 Guam shall pay directly or indirectly any commission, or other
8 valuable consideration, to any person, corporation or bank for
9 services as an insurance agent within Guam, *unless* such person,
10 corporation or bank shall hold a currently valid license to act as an
11 insurance agent as required by the laws of Guam; nor shall any
12 person, corporation or bank, other than a duly licensed agent, accept
13 any such commission or other valuable consideration.

14 (c) *Unless* denied licensure pursuant to this Section, persons
15 who have met the requirements of §§ 15703 and 15704.1 shall be
16 issued an insurance producer license. An insurance producer may
17 receive qualification for a license in one (1) or more of the following
18 lines of authority:

19 (1) life-insurance coverage on human lives, including
20 benefits of endowment and annuities, and may include benefits
21 in the event of death or dismemberment by accident and
22 benefits for disability income;

23 (2) accident and health or sickness-insurance coverage
24 for sickness, bodily injury or accidental death, and may include
25 benefits for disability income;

1 (3) property-insurance coverage for the direct or
2 consequential loss or damage to property of every kind;

3 (4) casualty-insurance coverage against legal liability,
4 including that for death, injury or disability, or damage to real
5 or personal property;

6 (5) variable life and variable annuity products-
7 insurance coverage provided under variable life insurance
8 contracts and variable annuities;

9 (6) personal lines-property and casualty insurance
10 coverage sold to individuals and families for primarily non-
11 commercial purposes;

12 (7) credit-limited line credit insurance; *or*

13 (8) any other line of insurance permitted under Guam
14 laws or regulations.

15 (d) An insurance producer license shall remain in effect
16 *unless* revoked or suspended as long as the fee set forth in this Title is
17 paid.

18 (e) A licensed insurance producer who is unable to comply
19 with license renewal procedures due to military service or some
20 other extenuating circumstance may request a waiver of those
21 procedures. The producer may also request a waiver of any
22 examination requirement, or any other fine or sanction imposed for
23 failure to comply with renewal procedures.

24 (f) The license shall contain the licensee's name, address,
25 personal identification number, the date of issuance, the lines of

1 authority, the expiration date and any other information the
2 insurance commissioner deems necessary.

3 (g) Licensees shall inform the insurance commissioner by
4 any means acceptable to the insurance commissioner of a change of
5 address within ninety (90) days of the change.

6 (h) In order to assist in the performance of the insurance
7 commissioner's duties, the insurance commissioner may contract
8 with non-governmental entities, including the National Association
9 of Insurance Commissioners ('NAIC'), or any affiliates or subsidiaries
10 that the NAIC oversees, to perform any ministerial functions,
11 including the collection of fees, related to producer licensing that the
12 insurance commissioner and the non-governmental entity may deem
13 appropriate."

14 **Section 5.** Section 15705.1 is hereby *added* to Article 7, Chapter 15, Division
15 2 of Title 22 of the Guam Code Annotated to read as follows:

16 **"Section 15705.1. Non-resident Licensing.**

17 (a) *Unless* denied licensure pursuant to § 157119, a non-
18 resident person shall receive a non-resident producer license *if*:

19 (1) the person is currently licensed as a resident and in
20 good standing in that person's home state;

21 (2) the person has submitted the proper request for
22 licensure and has paid the required fees;

23 (3) the person has submitted or transmitted to the
24 insurance commissioner the application for licensure that the
25 person submitted to that person's home state, or in lieu of the

1 same, a completed Uniform Application; *and*

2 (4) the person's home state awards non-resident
3 producer licenses to residents of Guam on the same basis.

4 (b) The insurance commissioner may verify the producer's
5 licensing status through the Producer Database maintained by the
6 National Association of Insurance Commissioners ('NAIC'), its
7 affiliates or subsidiaries.

8 (c) A non-resident producer who moves from one (1) state to
9 another state, or a resident producer who moves from Guam to
10 another state, shall file a change of address and provide certification
11 from the new resident state within thirty (30) days of the change of
12 legal residence.

13 (d) Notwithstanding any other provisions of this Act, a
14 person licensed as a surplus lines producer in that person's home
15 state shall receive a non-resident surplus lines producer license
16 pursuant to Subsection (a) of this Section. *Except* as to Subsection (a),
17 nothing in this Section otherwise amends or supercedes any
18 provision regulating excess and surplus lines.

19 (e) Notwithstanding any other provisions of this Act, a
20 person licensed as a limited line credit insurance or other type of
21 limited lines producer in that person's home state shall receive a non-
22 resident limited lines producer license, pursuant to Subsection (a) of
23 this Section, granting the same scope of authority as granted under
24 the license issued by the producer's home state."

25 **Section 6.** Section 15711 is hereby *added* to Article 7, Chapter 15, Division 2

1 of Title 22 of the Guam Code Annotated to read as follows:

2 **“Section 15711. Application for License; to Whom License May be**
3 **Issued.**

4 **(a) Definitions.**

5 (1) In this Section, *‘person’* means an individual or
6 business entity. The term *‘partnership’* or *‘agency partnership,’* as
7 used in this Section, means a general partnership or a
8 registered limited liability partnership.

9 (2) In this Section, the term *‘corporation’* shall mean a
10 corporation organized under the general corporation laws of
11 Guam, or a Guam domiciled limited liability company
12 organized or existing under Guam’s Limited Liability
13 Company Act having its principle place of business on Guam
14 and having as one (1) of its purposes the authority to act as an
15 insurance agent. The licensing and regulation of a limited
16 liability company shall be subject to the same provisions and
17 requirements of this Article that are applicable to corporations
18 licensed under this Article.

19 (3) In this Article, *‘bank’* means a national banking
20 association organized and existing under the National Bank
21 Acts (12 U.S.C. § 21, *et seq.*); a state bank organized and existing
22 under the banking laws of Guam; a Savings Bank organized
23 and existing under the banking laws of Guam; and a bank
24 branch, or a bank operating subsidiary, as defined by Guam or
25 Federal law, that is located and doing business on Guam.

1 **(b) Application for License; to Whom License May be**
2 **Issued.**

3 (1) Any person, corporation or bank that desires to
4 become an agent for a local mutual aid association, a local
5 mutual burial association, a government mutual assessment
6 corporation, a government mutual insurance company, a
7 casualty company writing accident and health insurance
8 company, or any other type of insurance carrier licensed to do
9 business on Guam, the agents of which are required to be
10 licensed under this Article, shall submit to the Department an
11 application for a license in the form required by the
12 Department.

13 (2) The application must bear a signed endorsement by
14 an officer, or properly authorized representative of the
15 insurance carrier, that the individual applicant or the
16 responsible officer and employee of the bank is qualified to
17 hold that individual, the partnership or the bank out in good
18 faith to the general public as an insurance agent, and that the
19 insurance carrier desires that the applicant act as an insurance
20 agent to represent it on Guam.

21 (3) The Department shall issue a license to an
22 individual or to a general partnership or corporation engaging
23 in the business of insurance. Nothing contained herein shall be
24 construed to permit any unlicensed employee or agent of any
25 corporation to perform any act of an agent under this Article

1 without obtaining a license.

2 (4) The Department shall issue a license to a bank *if* the
3 Department finds that: (i) the bank satisfies the definition of
4 this Article; (ii) *at least* one (1) officer of the bank and each
5 individual who will be performing any acts as an agent for the
6 bank are individually licensed under this Article; (iii) the bank
7 shall pay gross receipt taxes on the commission, fee income or
8 income it receives; *provided*, that should there be any law in
9 conflict with this provision, that this Section shall control in so
10 far as it deals with income derived from activities related to the
11 business of insurance; *and* (iv) the bank will have the ability to
12 pay any sums *up to* Twenty-five Thousand Dollars (\$25,000.00)
13 that it might become legally obligated to pay on account of any
14 claim made against it by a customer and caused by a negligent
15 act, error or omission of the bank, or any person for whose acts
16 the bank is legally liable in the conduct of its business under
17 this Article.

18 Banks shall *not* force or induce any customer into buying,
19 transferring or rolling over any insurance coverage in favor of
20 coverage which the bank will directly or indirectly receive a fee
21 income, commission or income.

22 Banks may sell insurance and may replace, transfer or rollover
23 coverage *if* it is in the best interest of the customer to do so. The term
24 '*best interest*' shall include, but *not* be limited to: an explanation
25 between the coverage and price of a product the bank is offering

1 *versus* the coverage the customer currently has in force. Comparing
2 companies financial strength shall *not* be permitted, or any other
3 activity in violation of this Title. The term '*customer*' means any
4 person, firm or corporation to whom the bank sells, or attempts to
5 sell, a policy of insurance, or from whom the bank accepts an
6 application for insurance.

7 That ability shall be proven through: (i) an errors and
8 omissions policy insuring the bank against errors and omissions in *at*
9 *least* the sum of One Hundred Thousand Dollars (\$100,000.00) with
10 *not more than* a Ten Thousand Dollar (\$10,000.00) deductible feature,
11 issued by an insurance company licensed to do business on Guam, or
12 *if* a policy cannot be obtained from a company licensed to do business
13 on Guam, a policy issued by a company *not* licensed to do business
14 on Guam upon filing an affidavit with the Department stating the
15 inability to obtain coverage; (ii) a bond executed by the bank as
16 principal and a surety company authorized to do business on Guam,
17 as surety, in the principal sum of Twenty-five Thousand Dollars
18 (\$25,000.00), payable to the Department for the use and benefit of
19 customers of the bank, conditioned that the bank shall pay any final
20 judgment recovered against it by a customer; *or* (iii) a deposit with
21 the comptroller of cash or securities, with a fair market value of
22 Twenty-five Thousand Dollars (\$25,000.00).

23 The comptroller shall accept and receive the deposit and hold it
24 *exclusively* for the protection of a customer of the bank who recovers a
25 final judgment against the bank. The deposit may be withdrawn *only*

1 upon filing with the Department satisfactory evidence that the bank
2 has withdrawn from the business of insurance and has no unsecured
3 liabilities outstanding, or that the bank has provided for the
4 protection of its customers by furnishing an errors and omissions
5 policy, or a bond, as provided by this Subsection.

6 Securities so deposited may be exchanged from time to time for
7 other qualified securities. A binding commitment to issue such a
8 policy or bond, or the tender of applicable securities, is sufficient in
9 connection with an application for license. Nothing in this
10 Subsection permits an unlicensed employee or agent of a bank to
11 perform any act of an agent under this Article without obtaining a
12 license, *except* that no bank, partnership, corporation or any other
13 legal business entity needs to procure an insurance license to sell
14 credit life, mortgage life or personal accident insurance.

15 A bank licensed as an agent under this Article must maintain
16 the insurance records of the bank, including all files relating to
17 customer complaints, separate from records relating to the banking
18 transactions of the bank. *If* at any time a bank that holds an agent's
19 license does *not* maintain the qualifications necessary to obtain a
20 license, the license of that bank to act as an agent shall be canceled or
21 denied in accordance with this Article. Each bank licensed as an
22 agent under this Article shall file under oath with its application for
23 license renewal a list of the name and address of each individual who
24 will be acting as an agent on behalf of the bank."

25 **Section 7. Severability.** *If* any provision of this Act or its application to

1 any person or circumstance is found to be invalid or contrary to law, such
2 invalidity shall *not* affect other provisions or applications of this Law which can
3 be given effect without the invalid provisions or applications, and to this end the
4 provisions of this Law are severable.



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

OCT 16 2001

The Honorable Joanne M. S. Brown
Legislative Secretary
I Mina'Bente Sais na Liheslaturan Guåhan
Twenty-Sixth Guam Legislature
Suite 200
130 Aspinal Street
Hagåtña, Guam 96910

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 94 (LS) "AN ACT TO ADD §§ 12111, 12112, 15704.1, 15704.2, 15705.1 AND 15711 TO TITLE 22 OF THE GUAM CODE ANNOTATED, RELATIVE TO INSURANCE LAWS ON GUAM" which I have **vetoed**.

This legislation is opposed by many, if not all, of the banks doing business on Guam. There are provisions in this legislation which purport to prohibit banks from requiring insurance on assets that they lend money on, prohibit banks from comparing the financial strength of insurance companies, and requiring banks to pay a bond of \$25,000 to engage in licensed insurance activities. The legislation is in conflict with federal law on various banking subjects.

The bond requirement is especially ludicrous when considering the capital requirements that banks must meet, and is discriminatory since it is imposed on banks and not others.

Most especially, this legislation appears to allow insurance companies to do business on Guam that are not properly backed up by the required capital. This is a disservice to the public.

Very truly yours,

Carl T. C. Gutierrez
I Maga'Lahen Guåhan
Governor of Guam

Attachments: original bill for vetoed legislation or
copy of bill for signed or overridden legislation
and legislation enacted without signature

cc: The Honorable Antonio R. Unpingco
Speaker


OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	
Time	2:12 PM
Date	10/16/01

0532

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session


CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 94 (LS), "AN ACT TO ADD §§ 12111, 12112, 15704.1, 15704.2, 15705.1 AND 15711 TO TITLE 22 OF THE GUAM CODE ANNOTATED, RELATIVE TO INSURANCE LAWS ON GUAM," was on the 25th day of September, 2001, duly and regularly passed.



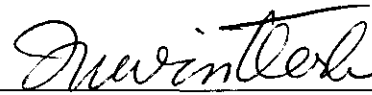
ANTONIO R. UNPINGCO
Speaker

Attested:



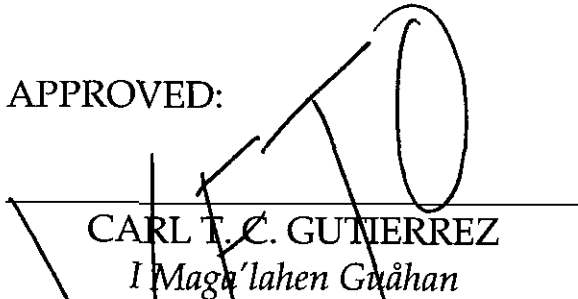
JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 4th day of October, 2001,
at 4:50 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



CARL T.C. GUTIERREZ
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session

Bill No. 94 (LS)

As substituted by the Committee
on Tourism, Transportation and
Economic Development and amended.

Introduced by:

A. L.G. Santos
F. P. Camacho
J. F. Ada
T. C. Ada
F. B. Aguon, Jr.
J. M.S. Brown
M. C. Charfauros
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5 **Prohibited.**

6 (a) No person shall:

7 (1) make, issue, circulate, or cause to be made, issued
8 or circulated, any estimate, circular or statement

1 misrepresenting the terms of any policy issued, or to be issued,
2 or the benefits or advantages promised thereby, or the
3 dividends or share of the surplus to be received thereon;

4 (2) make any false or misleading statement as to the
5 dividends or share of surplus previously paid on similar
6 policies;

7 (3) make any misleading representation or any
8 misrepresentation as to the financial condition of any insurer,
9 or as to the legal reserve upon which any life insurer operates;
10 *or*

11 (4) use any name or title of any policy or class of
12 policies misrepresenting the true nature thereof.

13 (b) *Only* the words in the carrier's actual policy are
14 actionable, and falsely written advertisements by the carrier about its
15 actual policy shall *not* give rise to a cause of action against the carrier;
16 *provided*, the carrier, or its licensed representative, is *not* in violation
17 of Subsection (a) herein."

18 **Section 2.** Section 12112 is hereby *added* to Article 1, Chapter 12, Division 2
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21 issue, nor cause to be made or issued, any written statement
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8 the application are true, correct and complete to the best of the
9 individual's knowledge and belief. *Before* approving the application,
10 the insurance commissioner shall find that the individual:

11 (1) is *at least* eighteen (18) years of age;

12 (2) has *not* committed any act that is a ground for
13 denial, suspension or revocation set forth in this Title;

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15 (4) has successfully passed the examinations for the
16 lines of authority for which the person has applied.

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18 required to obtain an insurance producer license. Application shall
19 be made using the Uniform Business Entity Application. *Before*
20 approving the application, the insurance commissioner shall find
21 that:

22 (1) the business entity has paid the fees set forth in this
23 Title; *and*

24 (2) the business entity has designated a licensed
25 producer responsible for the business entity's compliance with

1 the insurance laws, rules and regulations of Guam.”

2 **Section 4.** Section 15704.2 is hereby *added* to Article 7, Chapter 15, Division
3 2 of Title 22 of the Guam Code Annotated to read as follows:

4 **“Section 15704.2. Licensing of Agents.**

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6 any: (i) local mutual aid association; (ii) local mutual burial
7 association; (iii) statewide mutual assessment corporation; (iv)
8 government mutual insurance company; (v) casualty company
9 writing accident and health insurance; (vi) health maintenance
10 organization; *or* (vii) any other type of insurance carrier licensed to
11 do business on Guam and which insurance carrier’s agents are
12 required to be licensed under the provisions of this Article, on the
13 date that this Chapter shall become effective; shall have first
14 procured a license from the Department as in this Article is provided,
15 *unless* that individual or entity, and no such insurance carrier shall
16 appoint any person, corporation, or bank shall have obtained a
17 license under the provisions of this Article; *and* no such person,
18 corporation or bank who obtains a license shall engage in business as
19 an agent *until* that individual or entity shall have been appointed to
20 act as an agent by some duly authorized insurance carrier designated
21 by the provisions of this Article, and authorized to do business on
22 Guam.

23 Any person, corporation or bank desiring to act as an agent of
24 any insurance carrier licensed to do business on Guam and writing
25 health and accident insurance may obtain a separate license as an

1 agent to write health and accident insurance; *provided*, such person,
2 corporation or bank complies with the provisions of this Article, and
3 has been appointed to act as an agent by some duly authorized
4 insurance carrier authorized to do health and accident insurance
5 business on Guam.

6 (b) No insurer or licensed insurance agent doing business on
7 Guam shall pay directly or indirectly any commission, or other
8 valuable consideration, to any person, corporation or bank for
9 services as an insurance agent within Guam, *unless* such person,
10 corporation or bank shall hold a currently valid license to act as an
11 insurance agent as required by the laws of Guam; nor shall any
12 person, corporation or bank, other than a duly licensed agent, accept
13 any such commission or other valuable consideration.

14 (c) *Unless* denied licensure pursuant to this Section, persons
15 who have met the requirements of §§ 15703 and 15704.1 shall be
16 issued an insurance producer license. An insurance producer may
17 receive qualification for a license in one (1) or more of the following
18 lines of authority:

19 (1) life-insurance coverage on human lives, including
20 benefits of endowment and annuities, and may include benefits
21 in the event of death or dismemberment by accident and
22 benefits for disability income;

23 (2) accident and health or sickness-insurance coverage
24 for sickness, bodily injury or accidental death, and may include
25 benefits for disability income;

1 (3) property-insurance coverage for the direct or
2 consequential loss or damage to property of every kind;

3 (4) casualty-insurance coverage against legal liability,
4 including that for death, injury or disability, or damage to real
5 or personal property;

6 (5) variable life and variable annuity products-
7 insurance coverage provided under variable life insurance
8 contracts and variable annuities;

9 (6) personal lines-property and casualty insurance
10 coverage sold to individuals and families for primarily non-
11 commercial purposes;

12 (7) credit-limited line credit insurance; *or*

13 (8) any other line of insurance permitted under Guam
14 laws or regulations.

15 (d) An insurance producer license shall remain in effect
16 *unless* revoked or suspended as long as the fee set forth in this Title is
17 paid.

18 (e) A licensed insurance producer who is unable to comply
19 with license renewal procedures due to military service or some
20 other extenuating circumstance may request a waiver of those
21 procedures. The producer may also request a waiver of any
22 examination requirement, or any other fine or sanction imposed for
23 failure to comply with renewal procedures.

24 (f) The license shall contain the licensee's name, address,
25 personal identification number, the date of issuance, the lines of

1 authority, the expiration date and any other information the
2 insurance commissioner deems necessary.

3 (g) Licensees shall inform the insurance commissioner by
4 any means acceptable to the insurance commissioner of a change of
5 address within ninety (90) days of the change.

6 (h) In order to assist in the performance of the insurance
7 commissioner's duties, the insurance commissioner may contract
8 with non-governmental entities, including the National Association
9 of Insurance Commissioners ('NAIC'), or any affiliates or subsidiaries
10 that the NAIC oversees, to perform any ministerial functions,
11 including the collection of fees, related to producer licensing that the
12 insurance commissioner and the non-governmental entity may deem
13 appropriate."

14 **Section 5.** Section 15705.1 is hereby *added* to Article 7, Chapter 15, Division
15 2 of Title 22 of the Guam Code Annotated to read as follows:

16 **"Section 15705.1. Non-resident Licensing.**

17 (a) *Unless* denied licensure pursuant to § 157119, a non-
18 resident person shall receive a non-resident producer license *if*:

19 (1) the person is currently licensed as a resident and in
20 good standing in that person's home state;

21 (2) the person has submitted the proper request for
22 licensure and has paid the required fees;

23 (3) the person has submitted or transmitted to the
24 insurance commissioner the application for licensure that the
25 person submitted to that person's home state, or in lieu of the

1 same, a completed Uniform Application; *and*

2 (4) the person's home state awards non-resident
3 producer licenses to residents of Guam on the same basis.

4 (b) The insurance commissioner may verify the producer's
5 licensing status through the Producer Database maintained by the
6 National Association of Insurance Commissioners ('NAIC'), its
7 affiliates or subsidiaries.

8 (c) A non-resident producer who moves from one (1) state to
9 another state, or a resident producer who moves from Guam to
10 another state, shall file a change of address and provide certification
11 from the new resident state within thirty (30) days of the change of
12 legal residence.

13 (d) Notwithstanding any other provisions of this Act, a
14 person licensed as a surplus lines producer in that person's home
15 state shall receive a non-resident surplus lines producer license
16 pursuant to Subsection (a) of this Section. *Except* as to Subsection (a),
17 nothing in this Section otherwise amends or supercedes any
18 provision regulating excess and surplus lines.

19 (e) Notwithstanding any other provisions of this Act, a
20 person licensed as a limited line credit insurance or other type of
21 limited lines producer in that person's home state shall receive a non-
22 resident limited lines producer license, pursuant to Subsection (a) of
23 this Section, granting the same scope of authority as granted under
24 the license issued by the producer's home state."

25 **Section 6.** Section 15711 is hereby *added* to Article 7, Chapter 15, Division 2

1 of Title 22 of the Guam Code Annotated to read as follows:

2 **“Section 15711. Application for License; to Whom License May be**
3 **Issued.**

4 **(a) Definitions.**

5 (1) In this Section, *‘person’* means an individual or
6 business entity. The term *‘partnership’* or *‘agency partnership,’* as
7 used in this Section, means a general partnership or a
8 registered limited liability partnership.

9 (2) In this Section, the term *‘corporation’* shall mean a
10 corporation organized under the general corporation laws of
11 Guam, or a Guam domiciled limited liability company
12 organized or existing under Guam’s Limited Liability
13 Company Act having its principle place of business on Guam
14 and having as one (1) of its purposes the authority to act as an
15 insurance agent. The licensing and regulation of a limited
16 liability company shall be subject to the same provisions and
17 requirements of this Article that are applicable to corporations
18 licensed under this Article.

19 (3) In this Article, *‘bank’* means a national banking
20 association organized and existing under the National Bank
21 Acts (12 U.S.C. § 21, *et seq.*); a state bank organized and existing
22 under the banking laws of Guam; a Savings Bank organized
23 and existing under the banking laws of Guam; and a bank
24 branch, or a bank operating subsidiary, as defined by Guam or
25 Federal law, that is located and doing business on Guam.

1 **(b) Application for License; to Whom License May be**
2 **Issued.**

3 (1) Any person, corporation or bank that desires to
4 become an agent for a local mutual aid association, a local
5 mutual burial association, a government mutual assessment
6 corporation, a government mutual insurance company, a
7 casualty company writing accident and health insurance
8 company, or any other type of insurance carrier licensed to do
9 business on Guam, the agents of which are required to be
10 licensed under this Article, shall submit to the Department an
11 application for a license in the form required by the
12 Department.

13 (2) The application must bear a signed endorsement by
14 an officer, or properly authorized representative of the
15 insurance carrier, that the individual applicant or the
16 responsible officer and employee of the bank is qualified to
17 hold that individual, the partnership or the bank out in good
18 faith to the general public as an insurance agent, and that the
19 insurance carrier desires that the applicant act as an insurance
20 agent to represent it on Guam.

21 (3) The Department shall issue a license to an
22 individual or to a general partnership or corporation engaging
23 in the business of insurance. Nothing contained herein shall be
24 construed to permit any unlicensed employee or agent of any
25 corporation to perform any act of an agent under this Article

1 without obtaining a license.

2 (4) The Department shall issue a license to a bank *if* the
3 Department finds that: (i) the bank satisfies the definition of
4 this Article; (ii) *at least* one (1) officer of the bank and each
5 individual who will be performing any acts as an agent for the
6 bank are individually licensed under this Article; (iii) the bank
7 shall pay gross receipt taxes on the commission, fee income or
8 income it receives; *provided*, that should there be any law in
9 conflict with this provision, that this Section shall control in so
10 far as it deals with income derived from activities related to the
11 business of insurance; *and* (iv) the bank will have the ability to
12 pay any sums *up to* Twenty-five Thousand Dollars (\$25,000.00)
13 that it might become legally obligated to pay on account of any
14 claim made against it by a customer and caused by a negligent
15 act, error or omission of the bank, or any person for whose acts
16 the bank is legally liable in the conduct of its business under
17 this Article.

18 Banks shall *not* force or induce any customer into buying,
19 transferring or rolling over any insurance coverage in favor of
20 coverage which the bank will directly or indirectly receive a fee
21 income, commission or income.

22 Banks may sell insurance and may replace, transfer or rollover
23 coverage *if* it is in the best interest of the customer to do so. The term
24 '*best interest*' shall include, but *not* be limited to: an explanation
25 between the coverage and price of a product the bank is offering

1 *versus* the coverage the customer currently has in force. Comparing
2 companies financial strength shall *not* be permitted, or any other
3 activity in violation of this Title. The term '*customer*' means any
4 person, firm or corporation to whom the bank sells, or attempts to
5 sell, a policy of insurance, or from whom the bank accepts an
6 application for insurance.

7 That ability shall be proven through: (i) an errors and
8 omissions policy insuring the bank against errors and omissions in *at*
9 *least* the sum of One Hundred Thousand Dollars (\$100,000.00) with
10 *not more than* a Ten Thousand Dollar (\$10,000.00) deductible feature,
11 issued by an insurance company licensed to do business on Guam, or
12 *if* a policy cannot be obtained from a company licensed to do business
13 on Guam, a policy issued by a company *not* licensed to do business
14 on Guam upon filing an affidavit with the Department stating the
15 inability to obtain coverage; (ii) a bond executed by the bank as
16 principal and a surety company authorized to do business on Guam,
17 as surety, in the principal sum of Twenty-five Thousand Dollars
18 (\$25,000.00), payable to the Department for the use and benefit of
19 customers of the bank, conditioned that the bank shall pay any final
20 judgment recovered against it by a customer; *or* (iii) a deposit with
21 the comptroller of cash or securities, with a fair market value of
22 Twenty-five Thousand Dollars (\$25,000.00).

23 The comptroller shall accept and receive the deposit and hold it
24 *exclusively* for the protection of a customer of the bank who recovers a
25 final judgment against the bank. The deposit may be withdrawn *only*

1 upon filing with the Department satisfactory evidence that the bank
2 has withdrawn from the business of insurance and has no unsecured
3 liabilities outstanding, or that the bank has provided for the
4 protection of its customers by furnishing an errors and omissions
5 policy, or a bond, as provided by this Subsection.

6 Securities so deposited may be exchanged from time to time for
7 other qualified securities. A binding commitment to issue such a
8 policy or bond, or the tender of applicable securities, is sufficient in
9 connection with an application for license. Nothing in this
10 Subsection permits an unlicensed employee or agent of a bank to
11 perform any act of an agent under this Article without obtaining a
12 license, *except* that no bank, partnership, corporation or any other
13 legal business entity needs to procure an insurance license to sell
14 credit life, mortgage life or personal accident insurance.

15 A bank licensed as an agent under this Article must maintain
16 the insurance records of the bank, including all files relating to
17 customer complaints, separate from records relating to the banking
18 transactions of the bank. *If* at any time a bank that holds an agent's
19 license does *not* maintain the qualifications necessary to obtain a
20 license, the license of that bank to act as an agent shall be canceled or
21 denied in accordance with this Article. Each bank licensed as an
22 agent under this Article shall file under oath with its application for
23 license renewal a list of the name and address of each individual who
24 will be acting as an agent on behalf of the bank."

25 **Section 7. Severability.** *If any provision of this Act or its application to*

1 any person or circumstance is found to be invalid or contrary to law, such
2 invalidity shall *not* affect other provisions or applications of this Law which can
3 be given effect without the invalid provisions or applications, and to this end the
4 provisions of this Law are severable.

6

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2001 (FIRST) Regular Session

Date: 9/25

VOTING SHEET

S Bill No. 94(LS)

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
ADA, Joseph F.	✓				
ADA, Thomas C.	✓				
AGUON, Frank B., Jr.	✓				
BROWN, Joanne M. S.	✓				
CALVO, Eddie B.			<i>Excused</i>		
CAMACHO, Felix P.	✓				
CHARFAUROS, Mark C.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LEON GUERRERO, Lourdes A.	✓				
MOYLAN, Kaleo S.			<i>excused</i>		
PANGELINAN, Vicente C.	✓				
SANTOS, Angel L.G.	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.	✓				

TOTAL

13 2 _____

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



THE OFFICE OF
Senator Felix P. Camacho
TWENTY-SIXTH GUAM LEGISLATURE

September 24, 2001

The Honorable Antonio R. Unpingco
Speaker
I Mina' Bente Sais Na Liheslaturan Guahan
155 Hessler Street
Hagatna, Guam 96910

Dear Mr. Speaker:

The Committee on Tourism, Transportation and Economic Development, to which was referred **Bill No. 94 (LS)**, "AN ACT TO ADD, REPEAL AND REENACT VARIOUS INSURANCE PROVISIONS AND TO ADD ARTICLES 3, 9 AND 10 ALL WITHIN TITLE 22 OF THE GUAM CODE ANNOTATED, RELATIVE TO INSURANCE LAWS ON GUAM," does hereby report back with the recommendation **TO DO PASS as substituted by the Committee.**

The Committee votes are as follows:

<u>8</u>	To Pass
<u>-</u>	Not To Pass
<u>-</u>	To The Inactive File
<u>-</u>	Abstained
<u>-</u>	Off-Island
<u>-</u>	Not Available

A copy of the Committee Report and all pertinent documents are attached for your information and file.

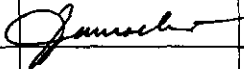

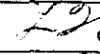
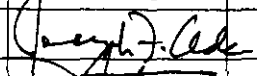
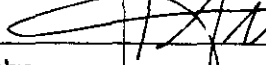
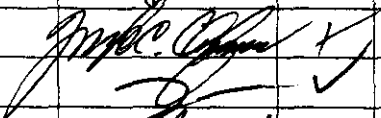
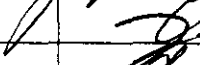

Sincerely,

Felix P. Camacho

Committee on
Tourism, Transportation
& Economic Development

VOTING SHEET

**Bill No. 94 (LS), "AN ACT TO ADD, REPEAL AND REENACT
VARIOUS INSURANCE PROVISIONS AND TO ADD ARTICLES 3,
9 AND 10 ALL WITHIN TITLE 22 OF THE GUAM CODE
ANNOTATED, RELATIVE TO INSURANCE LAWS ON GUAM,"**

RECOMMENDATION TO						
COMMITTEE MEMBERS	SIGNATURE	TO PASS	NOT TO PASS	TO REPORT OUT ONLY	ABSTAIN	INACTIVE FILE
Senator Felix Camacho		✓				
Senator Kaleo Moylan						
Speaker Antonio Unpingco		✓				
Vice Speaker Larry Kasperbauer		✗				
Senator Joseph Ada		✓				
Senator Mark Forbes		✓				
Senator Eddie Baza Calvo						
Senator Mark Charfauros		✓				
Senator Ben Pangelinan		✓				
Senator Tom Ada		✓				
Senator Lou Leon Guerrero						

COMMITTEE REPORT

ON

BILL NO. 94(LS)

“AN ACT TO ADD, REPEAL AND REENACT VARIOUS INSURANCE PROVISIONS AND TO ADD ARTICLES 3, 9 AND 10 ALL WITHIN TITLE 22 OF THE GUAM CODE ANNOTATED, RELATIVE TO INSURANCE LAWS ON GUAM.”

COMMITTEE MEMBERS

Chairman: Felix P. Camacho

Vice Chairman: Kaleo Moylan

Ex-Officio Member: Antonio R. Unpingco

Larry Kasperbauer

Joseph Ada

Mark Forbes

Eddie Baza Calvo

Mark Charfauros

Ben Pangelinan

Tom Ada

Lou Leon Guerrero

COMMITTEE REPORT
TOURISM, TRANSPORTATION AND ECONOMIC
DEVELOPMENT

BILL NO. 94(LS)

“AN ACT TO ADD, REPEAL AND REENACT VARIOUS INSURANCE PROVISIONS AND TO ADD ARTICLES 3, 9 AND 10 ALL WITHIN TITLE 22 OF THE GUAM CODE ANNOTATED, RELATIVE TO INSURANCE LAWS ON GUAM.”

I. PUBLIC HEARING

The Committee on Tourism, Transportation and Economic Development held a public hearing on June 19th, at 10 a.m. to hear testimony on Bill No. 94(LS), “AN ACT TO ADD, REPEAL AND REENACT VARIOUS INSURANCE PROVISIONS AND TO ADD ARTICLES 3, 9 AND 10 ALL WITHIN TITLE 22 OF THE GUAM CODE ANNOTATED, RELATIVE TO INSURANCE LAWS ON GUAM.”

The hearing was called to order by Senator Felix P. Camacho, Chairman of the Committee on Tourism, Transportation and Economic Development. Members present included Vice Speaker Larry Kasperbauer and Senators Kaleo Moylan, Tom Ada, Mark Charfauros and Ben Pangelinan.

Present to testify were: Oliver Shilling, Richard Reber, John Moore, Jerry Crisostomo, Jeff Hansen and James Moylan.

II. TESTIMONY

Mr. Oliver Shilling, representing Pacific Indemnity Insurance, noted that he had only been given a complete copy of Bill 94 that morning. Because the legislation is substantial, he asked for more time to review the bill and provide testimony at a later date.

Senator Camacho offered to provide more time to work with the committee regarding the legislation.

Richard Reber, representing the Insurance Association of Guam, also said the bill needed more study. He strongly encouraged more interaction between the industry and the Legislature to work on the bill.

Senator Kaleo Moylan said much of the bill was written to meet federal mandates; Mr. Reber said it appeared that there was a “significant departure” between the federal wording and Bill 94.

Mr. John Moore, representing Pacific Indemnity, read his written testimony which is attached to this committee report.

Mr. Jerry Crisostomo, representing Net Care Life and Health Insurance, said he supports Article 9, Section 15901, as it pertains to the establishment of an Insurance Fraud Investigation Unit within the Department of Revenue and Taxation. Mr. Crisostomo also read his written testimony which is attached.

Mr. Jeff Hansen, representing Net Care, also read his written testimony which is attached to this committee report.

Mr. James Moylan, representing Moylan's Insurance, said he would be getting a copy of the federal model and forwarding it to the Insurance Association. Mr. Moylan stated that he would like to see the final passage of this measure but will work with the committee during the mark-up phase. Mr. Moylan also submitted written testimony.

III. FINDINGS

The Committee finds that the substituted version is a compromise that will satisfy the concerns of those from the insurance industry that testified at the hearing and submitted written testimony to the committee.

IV. RECOMMENDATIONS

The Committee on Tourism, Transportation and Economic Development hereby reports out Bill No. 94(LS) as substituted by the Committee with the recommendation ***TO DO PASS***.



MINA BENTE SAIS NA LIHESLATURAN GUÅHAN

Kumitehan Areklamento, Hinanao Gubetnamenton Hinirát, Rifotma yan Rinueba,
yan Asuntón Fidirát, Taotao Hiyong yan Hinirát

*Senadot Mark Forbes, Gebilu
Kabisiyon Mayurát*

07 JUN 2001

MEMORANDUM

TO: ~~Chairman
Committee on Tourism, Transportation and Economic Development~~

FROM: ~~Chairman
Committee on Rules, General Governmental Operations, Reorganization and
Reform, and Federal, Foreign and General Affairs~~

SUBJECT: Principal Referral - Bill No. 94 (LS)

The above bill is referred to your Committee as the Principal Committee, in accordance with Section 6.04.05.01. of the Standing Rules. Your Committee is the Committee authorized to perform the public hearing on this bill and to amend or substitute the bill, as well as report the bill out to the Body. It is recommended that you schedule a public hearing at your earliest convenience.

Thank you for your attention to this matter.

MARK FORBES

Attachment

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session

Bill No. 94 (LS)

As substituted by the Committee
on Tourism, Transportation and
Economic Development.

Introduced by:

A. L.G. Santos 

F. P. Camacho 

**AN ACT TO ADD SECTIONS 12111 AND 12112, 15704.1,
15704.2, 15705.1 AND 15711 TO ARTICLES 1 AND 7 OF
CHAPTERS 12 AND 15 ALL OF TITLE 22 OF THE
GUAM CODE ANNOTATED, RELATIVE TO
INSURANCE LAWS ON GUAM.**

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

2 **Section 1.** Section 12111 is hereby *added* to Article 1 of Chapter 12 of Division
3 2 of Title 22 of the Guam Code Annotated to read as follows:

4 **“Section 12111. Misrepresentations and False Advertising**

5 **Prohibited.** (a) No person shall make, issue, circulate, or cause to be
6 made, issued or circulated, any estimate, circular or statement misrepresenting the
7 terms of any policy issued, or to be issued, or the benefits or advantages promised
8 thereby, or the dividends or share of the surplus to be received thereon;

9 (1) make any false or misleading statement as to the dividends or
10 share of surplus previously paid on similar policies;

11 (2) make any misleading representation or any misrepresentation

1 as to the financial condition of any insurer, or as to the legal reserve upon
2 which any life insurer operates; *or*

3 (3) use any name or title of any policy or class of policies
4 misrepresenting the true nature thereof.

5 (b) Only the words in the carrier's actual policy are actionable and falsely
6 written advertisements by the carrier about its actual policy shall *not* give rise to
7 a cause of action against the carrier; *provided*, the carrier or its licensed
8 representative is *not* in violation of Subsection (a) herein."

9 **Section 2.** Section 12112 is hereby *added* to Article 1 of Chapter 12 of Division
10 2 of Title 22 of the Guam Code Annotated to read as follows:

11 **"Section 12112. Twisting Prohibited.** No person shall make or issue,
12 nor cause to be made or issued, any written statement misrepresenting or making
13 incomplete comparisons as to the terms, conditions or benefits contained in any
14 policy for the purpose of inducing or attempting to induce the policyholder to lapse,
15 forfeit, surrender, retain, exchange or convert any insurance policy."

16 **Section 3.** Section 15704.1 is hereby *added* to Article 7 of Chapter 15 of
17 Division 2 of Title 22 of the Guam Code Annotated to read as follows:

18 **"Section 15704.1. Application for License.** (a) A person
19 applying for a resident insurance producer license shall make application to the
20 insurance commissioner on the Uniform Application and declare under penalty of
21 refusal, suspension or revocation of the license that the statements made in
22 application are true, correct and complete to the best of the individual's knowledge
23 and belief. Before approving the application, the insurance commissioner shall find
24 that the individual:

25 (1) is at least eighteen (18) years of age;

26 (2) has not committed any act that is a ground for denial,

1 suspension or revocation set forth in this Title;

2 (3) has paid the fees set forth in this Title; *and*

3 (4) has successfully passed the examinations for the lines of
4 authority for which the person has applied.

5 (b) A business entity acting as an insurance producer is required to obtain
6 an insurance producer license. Application shall be made using the Uniform
7 Business Entity Application. Before approving the application, the insurance
8 commissioner shall find that:

9 (1) the business entity has paid the fees set forth in this Title; *and*

10 (2) the business entity has designated a licensed producer
11 responsible for the business entity's compliance with the insurance laws,
12 rules and regulations of Guam.”

13 **Section 4.** Section 15704.2 is hereby *added* to Article 7 of Chapter 15 of
14 Division 2 of Title 22 of the Guam Code Annotated to read as follows:

15 **“Section 15704.2. Licensing of Agents.** (a) No person,
16 corporation or bank shall act as an agent of any: (i) local mutual aid association,
17 (ii) local mutual burial association, (iii) statewide mutual assessment corporation,
18 (iv) government mutual insurance company, (v) casualty company writing accident
19 and health insurance, (vi) health maintenance organization, or (vii) any other type
20 of insurance carrier licensed to do business on Guam and which insurance carrier’s
21 agents are required to be licensed under the provisions of this Article, on the date
22 that this Chapter shall become effective, shall have first procured a license from the
23 Department as in this Article is provided, *unless* that individual or entity, and no
24 such insurance carrier shall appoint any person, corporation, or bank shall have
25 obtained a license under the provisions of this Article, and no such person,
26 corporation or bank who obtains a license shall engage in business as an agent until

1 that individual or entity shall have been appointed to act as an agent by some duly
2 authorized insurance carrier designated by the provisions of this Article, and
3 authorized to do business on Guam. Any person, corporation or bank desiring to
4 act as an agent of any insurance carrier licensed to do business on Guam and
5 writing health and accident insurance may obtain a separate license as an agent to
6 write health and accident insurance; *provided*, such person, corporation or bank
7 complies with the provisions of this Article and has been appointed to act as an
8 agent by some duly authorized insurance carrier authorized to do health and
9 accident insurance business on Guam.

10 (b) No insurer or licensed insurance agent doing business on Guam shall
11 pay directly or indirectly any commission, or other valuable consideration, to any
12 person, corporation or bank for services as an insurance agent within Guam, *unless*
13 such person, corporation or bank shall hold a currently valid license to act as an
14 insurance agent as required by the laws of Guam; nor shall any person, corporation,
15 or bank other than a duly licensed agent, accept any such commission or other
16 valuable consideration.

17 (c) Unless denied licensure pursuant to this Section, persons who have
18 met the requirements of Sections 15703 and 15704.1 shall be issued an insurance
19 producer license. An insurance producer may receive qualification for a license in
20 one or more of the following lines of authority:

21 (1) Life-insurance coverage on human lives including benefits of
22 endowment and annuities, and may include benefits in the event of death or
23 dismemberment by accident and benefits for disability income.

24 (2) Accident and health or sickness-insurance coverage for
25 sickness, bodily injury or accidental death and may include benefits for
26 disability income.

1 (3) Property-insurance coverage for the direct or consequential loss
2 or damage to property of every kind.

3 (4) Casualty-insurance coverage against legal liability, including
4 that for death, injury or disability or damage to real or personal property.

5 (5) Variable life and variable annuity products-insurance coverage
6 provided under variable life insurance contracts and variable annuities.

7 (6) Personal lines-property and casualty insurance coverage sold to
8 individuals and families for primarily noncommercial purposes.

9 (7) Credit-limited line credit insurance.

10 (8) Any other line of insurance permitted under state laws or
11 regulations.

12 (d) An insurance producer license shall remain in effect unless revoked
13 or suspended as long as the fee set forth in this Title is paid.

14 (e) A licensed insurance producer who is unable to comply with license
15 renewal procedures due to military service or some other extenuating circumstance
16 may request a waiver of those procedures. The producer may also request a waiver
17 of any examination requirement or any other fine or sanction imposed for failure
18 to comply with renewal procedures.

19 (f) The license shall contain the licensee's, name, address, personal
20 identification number, and the date of issuance, the lines of authority, the expiration
21 date and any other information the insurance commissioner deems necessary.

22 (g) Licensees shall inform the insurance commissioner by any means
23 acceptable to the insurance commissioner of a change of address within ninety (90)
24 days of the change.

25 (h) In order to assist in the performance of the insurance commissioner's
26 duties, the insurance commissioner may contract with non-governmental entities,

1 including the National Association of Insurance Commissioner (NAIC) or any
2 affiliates or subsidiaries that the NAIC oversees, to perform any ministerial
3 functions, including the collection of fees, related to producer licensing that the
4 insurance commissioner and the non-governmental entity may deem appropriate.”

5 **Section 5.** Section 15705.1 is hereby added to Article 7 of Chapter 15 of Division
6 2 of Title 22 of the Guam Code Annotated to read as follows:

7 **“Section 15705.1. Nonresident Licensing.** (a) Unless
8 denied licensure pursuant to Section 157119, a nonresident person shall receive a
9 nonresident producer license if:

10 (1) the person is currently licensed as a resident and in good
11 standing in his or her home state;

12 (2) the person has submitted the proper request for licensure and
13 has paid the required fees;

14 (3) the person has submitted or transmitted to the insurance
15 commissioner the application for licensure that the person submitted to his
16 or her home state, or in lieu of the same, a completed Uniform Application;
17 *and*

18 (4) the person’s home state awards non-resident producer licenses
19 to residents of this state on the same basis.

20 (b) The insurance commissioner may verify the producer’s licensing
21 status through the Producer Database maintained by the National Association of
22 Insurance Commissioners, its affiliates or subsidiaries.

23 (c) A nonresident producer who moves from one state to another state or
24 a resident producer who moves from this state to another state shall file a change
25 of address and provide certification from the new resident state within thirty (30)
26 days of the change of legal residence.

1 (d) Notwithstanding any other provision of this Act, a person licensed as
2 a surplus lines producer in his or her home state shall receive a nonresident surplus
3 lines producer license pursuant to Subsection (a) of this Section. Except as to
4 Subsection (a), nothing in this Section otherwise amends or supercedes any
5 provision regulating excess and surplus lines.

6 (e) Notwithstanding any other provision of this Act, a person licensed as
7 a limited line credit insurance or other type of limited lines producer in his or her
8 home state shall receive a nonresident limited lines producer license, pursuant to
9 Subsection A of this section, granting the same scope of authority as granted under
10 the license issued by the producer's home state."

11 **Section 6.** Section 15711 is hereby added to Article 7, Chapter 15, Division 2 of
12 Title 22 of the Guam Code Annotated to read as follows:

13 **"Section 15711. Application for License; to Whom License May be**
14 **Issued. (a) Definitions.**

15 (1) In this Section, 'person' means an individual or business entity.

16 The term 'partnership' or 'agency partnership,' as used in this Section
17 means a general partnership or a registered limited liability partnership.

18 (2) In this Section, the term 'corporation' shall mean a corporation
19 organized under the general corporation laws of Guam, or a Guam domiciled
20 limited liability company organized or existing under Guam's Limited
21 Liability Company Act having its principle place of business on Guam and
22 having as one (1) of its purposes the authority to act as an insurance agent.

23 The licensing and regulation of a limited liability company shall be subject
24 to the same provisions and requirements of this Article that are applicable to
25 corporations licensed under this Article.

26 (3) In this Article, 'bank' means a national banking association

1 organized and existing under the National Bank Acts (12 U.S.C. §21, et
2 seq.), a state bank organized and existing under the banking laws of Guam,
3 a Savings Bank organized and existing under the banking laws of Guam, a
4 bank branch, or a bank operating subsidiary, as defined by Guam or Federal
5 law, that is located and doing business on Guam.

6 (b) Application for License; to Whom License May be Issued.

7 (1) Any person, corporation or bank that desires to become an
8 agent for a local mutual aid association, a local mutual burial association, a
9 government mutual assessment corporation, a government mutual insurance
10 company, a casualty company writing accident and health insurance
11 company, or any other type of insurance carrier licensed to do business on
12 Guam, the agents of which are required to be licensed under this Article,
13 shall submit to the Department an application for a license in the form
14 required by the Department.

15 (2) The application must bear a signed endorsement by an officer
16 or properly authorized representative of the insurance carrier that the
17 individual applicant or the responsible officer and employee of the bank is
18 qualified to hold that individual or the partnership, or the bank out in good
19 faith to the general public as an insurance agent and that the insurance
20 carriers desires that the applicant act as an insurance agent to represent it on
21 Guam.

22 (3) The Department shall issue a license to an individual or to a
23 general partnership or corporation engaging in the business of insurance.
24 Nothing contained herein shall be construed to permit any unlicensed
25 employee or agent of any corporation to perform any act of an agent under
26 this Article without obtaining a license.

1 (4) The Department shall issue a license to a bank if the
2 Department finds that: (i) the bank satisfies the definition of this Article, (ii)
3 at least one (1) officer of the bank and each individual who will be
4 performing any acts as an agent for the bank are individually licensed under
5 this Article, (iii) the bank shall pay gross receipt taxes on the commission or
6 fee income or income it receives; provided, that should there be any law in
7 conflict with this provision that this Section shall control in so far as it deals
8 with income derived from activities related to the business of insurance; and
9 (iv) the bank will have the ability to pay any sums up to Twenty-five
10 Thousand Dollars (\$25,000.00) that it might become legally obligated to pay
11 on account of any claim made against it by a customer and caused by a
12 negligent act, error or omission of the bank, or any person for whose acts the
13 bank is legally liable in the conduct of its business under this Article. Banks
14 shall not force or induce any customer into buying, transferring or rolling
15 over any insurance coverage in favor of coverage which the bank will
16 directly or indirectly receive a fee income, commission or income.

17 Banks may sell insurance and may replace, transfer or rollover coverage if
18 it is in the best interest of the customer to do so. The term 'best interest' shall
19 include, but not be limited to: an explanation between the coverage and price of
20 a product the bank is offering versus the coverage the customer currently has in
21 force. Comparing companies financial strength shall not be permitted, or any
22 other activity in violation of this Title. The term 'customer' means any person,
23 firm or corporation to whom the banks sells or attempts to sell a policy of
24 insurance, or from whom the bank accepts an application for insurance. That
25 ability shall be proven through: (a) an errors and omissions policy insuring the
26 bank against errors and omissions in at least the sum of One Hundred Thousand

1 Dollars (\$100,000.00) with not more than a Ten Thousand Dollar (\$10,000.00)
2 deductible feature, issued by an insurance company licensed to do business on
3 Guam, or if a policy cannot be obtained from a company licensed to do business
4 on Guam, a policy issued by a company not licensed to do business on Guam upon
5 filing an affidavit with the Department stating the inability to obtain coverage; (b)
6 a bond executed by the bank as principal and a surety company authorized to do
7 business on Guam, as surety, in the principal sum of Twenty-five Thousand Dollars
8 (\$25,000.00), payable to the Department for the use and benefit of customers of the
9 bank, conditioned that the bank shall pay any final judgment recovered against it
10 by a customer; or (c) a deposit with the comptroller of cash or securities, with a fair
11 market value of Twenty-five Thousand Dollars (\$25,000.00).

12 The comptroller shall accept and receive the deposit and hold it exclusively
13 for the protection of a customer of the bank who recovers a final judgment against
14 the bank. The deposit may be withdrawn only upon filing with the Department
15 satisfactory evidence that the bank has withdrawn from the business of insurance
16 and has no unsecured liabilities outstanding or that the bank has provided for the
17 protection of its customers by furnishing an errors and omissions policy or a bond
18 as provided by this Subsection. Securities so deposited may be exchanged from
19 time to time for other qualified securities. A binding commitment to issue such a
20 policy or bond, or the tender of applicable securities, is sufficient in connection
21 with an application for license. Nothing in this Subsection permits an unlicensed
22 employee or agent of a bank to perform any act of an agent under this Article
23 without obtaining a license, *except* that no bank, partnership, corporation or any
24 other legal business entity needs to procure an insurance license to sell credit life,
25 mortgage life or personal accident insurance. A bank licensed as an agent under
26 this Article must maintain the insurance records of the bank, including all files

1 relating to customer complaints, separate from records relating to the banking
2 transactions of the bank. *If* at any time, a bank that holds an agent's license does
3 *not* maintain the qualifications necessary to obtain a license, the license of that bank
4 to act as an agent shall be canceled or denied in accordance with this Article. Each
5 bank licensed as an agent under this Article shall file under oath with its application
6 for license renewal a list of the name and address of each individual who will be
7 acting as an agent on behalf of the bank.”



8 **Section 7. Severability.** If any provision of this Act or its application to any
9 person or circumstance is found to be invalid or contrary to law, such invalidity shall *not*
10 affect other provisions or applications of this Law which can be given effect without the
11 invalid provisions or applications, and to this end the provisions of this Law are severable.

2001

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session

Bill No. 94(LS)

Introduced by:

A. L.G. Santos 
F. P. Camacho 

**AN ACT TO ADD, REPEAL AND REENACT VARIOUS
INSURANCE PROVISIONS AND TO ADD ARTICLES 3,
9 AND 10 ALL WITHIN TITLE 22 OF THE GUAM
CODE ANNOTATED, RELATIVE TO INSURANCE
LAWS ON GUAM.**

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

2 **Section 1.** Section 12104 of Article 1, Chapter 2 of Title 22 of the Guam Code
3 Annotated is hereby *repealed and reenacted* to read as follows:

4 **“Section 12104. Definitions.** The rules and definitions contained
5 in this Section shall be used in interpreting the provisions of this Title.

6 (a) The present tense includes the past and future tenses; and the future,
7 the present.

8 (b) The masculine gender includes the feminine and neuter.

9 (c) The singular number includes the plural, and the plural includes the
10 singular.

11 (d) The word shall is mandatory and the word "may" is permissive, unless
12 otherwise apparent from the context.

1 (e) “*Adjuster*” means any person who acts for or on behalf of an insurer
2 or an insured in determining and making settlement of the amount payable to the
3 insured for any loss or damage under a policy.

4 (f) “*Admitted*” in relation to a person, means entitled to transact
5 insurance business in Guam under the laws of Guam; nonadmitted, in relation to
6 a person, means not entitled to transact insurance business in Guam under the laws
7 of Guam.

8 (g) “*Advisory organization*” means every person, other than an admitted
9 insurer, who prepares policy forms or makes underwriting rules, or who collects
10 and furnishes loss or expense statistics or other statistical information and data and
11 acts in an advisory, as distinguished from a rate making, capacity. No duly
12 authorized attorney-at-law acting in the usual course of his profession shall be
13 deemed an advisory organization.

14 (h) “*Actuary*” means a member in good standing of the American
15 Academy of Actuaries.

16 (i) “*Agent*” means an individual or business entity required to be licensed
17 and appointed under the laws of Guam to sell, solicit, or negotiate insurance or
18 annuity contracts.

19 (j) “*Alien*” means organized under the laws of any government other than
20 Guam or the United States or any political subdivision thereof, whether or not
21 admitted.

22 (k) “*Business entity*” means a corporation, association, partnership,
23 limited liability company, limited liability partnership, employer group,
24 professional employer organization, or other legal entity.

25 (l) “*Broker*” means a person who, for compensation and on behalf of
26 another person, transacts insurance business other than as insurer, general agent,

1 sub-agent or solicitor.

2 (m) **“Certificate”** means the Certificate of Authority required of an insurer
3 to transact insurance business in Guam.

4 (n) **“Charter”** means articles of incorporation, agreement or association,
5 charter granted by legislative act, or other basic constituent document of a
6 corporation or the power of attorney of the attorney-in-fact of a reciprocal insurer.

7 (o) **“Department”** means the Division of Insurance of the Department of
8 Revenue and Taxation, *unless* the context otherwise requires.

9 (p) **“Domestic”** means organized under the laws of Guam, whether or not
10 admitted.

11 (q) **“Domicile”** of an insurer means: (1) as to Canadian insurers, Canada
12 and the province in which the insurer’s head office is located; (2) as to all other

13 (r) **“Foreign”** means not organized under the laws of Guam, but
14 organized under the laws of the United States or any political subdivision thereof,
15 whether or not admitted.

16 (s) **“Foreign insurer”** means an insurer formed under the laws of any
17 jurisdiction, other than Guam, and includes an ‘alien’ insurer, *unless* otherwise
18 distinguished by the context.

19 (t) **“General Agent”** means a person who is properly licensed under the
20 insurance laws of Guam and who is authorized by an insurer to countersign, issue
21 and deliver new policies, to accept service of process on behalf of the insurer, and
22 vested with full authority to consummate a contract of insurance and to transact all
23 other necessary business of the insurer on Guam *not* in conflict with this Title;
24 *provided*, that the general agent shall *not* be liable for the payment or handling of
25 any claims, nor shall the general agent be liable for any administrative functions of
26 the insurer or any other functions of the insurer absent an express written agency

1 contract between the insurer and the general agent stating such agreement by the
2 parties; *provided further*, that there shall be no liability on the part of, and no cause
3 of action of any nature shall arise against, any general agent, absent an express
4 written contract between the insurer and the general agent specifically spelling out
5 in clear and understandable language the terms of their business relationship.”

6 (u) **“General lines agent”** means an agent who transacts any of the
7 following kinds of insurance: (1) property insurance; (2) casualty insurance; (3)
8 surety insurance; (4) marine and transportation insurance; *or* (5) disability
9 insurance, *if* transacted for an insurer also represented by the same agent as the
10 property or casualty insurance.

11 (v) **“Home State”** means the District of Columbia and any state or
12 territory of the United States in which a licensee maintains his or her principal place
13 of residence or principal place of business and is licensed by that state.

14 (w) **“Insurance”** means any of the lines of authority contained in this title
15 in which one undertakes a contract to indemnify another against loss, damage or
16 liability arising from determinable hazards or fortuitous occurrences, or to pay or
17 allow ascertainable risk contingencies.

18 (x) **“Insurance fraud”** means any act that is a violation of any penal law,
19 and that is part of an attempt to knowingly defraud an insurer.”

20 (y) **“Insurance Producer”** - means a person required to be licensed under
21 the laws of Guam to sell, solicit, or negotiate insurance.

22 (z) **“Insurer”** means the person other than a shareholder or investor who
23 undertakes to indemnify another by insurance; insured means the person so
24 indemnified.

25 (aa) **“Issue”** means to write, renew, execute, effect or other-wise enter into
26 a contract of insurance.

1 (bb) *"License"* means a document issued by Guam's insurance
2 commissioner authorizing a person to act as an insurance producer for the lines of
3 authority specified in the document. The license itself does not create any
4 authority, actual, apparent or inherent, in the holder to represent or commit an
5 insurance carrier.

6 (cc) *"Limited Line Credit Insurance"* includes credit life, credit
7 disability, credit property credit unemployment, mortgage life, mortgage guaranty,
8 mortgage disability, automobile dealer gap insurance, and any other form of
9 insurance offered in connection with an extension of credit that is limited to
10 partially or wholly extinguishing that credit obligation that the insurance
11 commissioner determines should be designated a form of limited line credit
12 insurance.

13 (dd) *"Limited Line Credit Insurance Producer"* means a person who
14 sells, solicits or negotiates one or more forms of limited line credit insurance
15 coverage to individuals through a master, corporate, group or individual policy.

16 (ee) *"Limited Lines Insurance"* means those lines of insurance defined
17 in this title or any other line of insurance that the insurance commissioner deems
18 necessary to recognize for the purposes of complying with the nonresident licensing
19 provision under this title.

20 (ff) *"Limited Lines Producer"* means a person authorized by the
21 insurance commissioner to sell, solicit or negotiate limited lines insurance.

22 (gg) *"Mutual insurer"* means an incorporated insurer without capital
23 stock and the governing body of which is elected by its policyholders, *except*
24 certain foreign insurers which the Commissioner finds to be organized on the
25 mutual plan under the laws of their state or province of domicile, but having
26 temporary share capital, or providing for election of the insurer's governing others

1 are *not* excluded as mutual insurers.

2 (hh) "**Negotiate**" means the act of conferring directly with or offering
3 advise directly to a purchaser or prospective purchaser of a particular contract of
4 insurance concerning any of the substantive benefits, terms or conditions of the
5 contract, provided that the person engaged in the act either sells insurance or
6 obtains insurance from insurers for purchasers.

7 (ii) "**Office**" means the office of the Commissioner and Department
8 means the Department of Revenue and Taxation.

9 (jj) "**Paid-in capital**" or "**Capital paid-in**" means the lower of the
10 following amounts:

11 (1) The value of an insurer's assets in excess of the sum of its
12 liabilities for losses reported, expenses, taxes, and all other indebtedness and
13 reinsurance of outstanding risks as provided by law;

14 (2) The aggregate par value of an insurer's issued shares of stock,
15 including treasury shares.

16 For the purpose of computing paid in capital or capital, paid in, shares
17 of stock are not considered as liabilities.

18 (kk) "**Person**" means an individual or a business entity.

19 (ll) "**Policy**" means the written instrument in which a contract of
20 insurance is set forth.

21 (mm) "**Political subdivision in reference to the United States,**"
22 means any State, the District of Columbia, any territory, possession, or
23 commonwealth belonging to or part of the United States.

24 (nn) "**Premium**" means the written contract of or written agreement for or
25 effecting insurance and includes all clauses, riders, endorsements and papers, which
26 are a part thereof.

1 (oo) ***“Rating bureau”*** means every person, other than an admitted insurer,
2 who has as his object or purpose the making of rates, rating plans or rating systems.

3 (pp) ***“Reciprocal insurance”*** means insurance from an interexchange
4 among persons known as subscribers, of reciprocal agreements of indemnity, the
5 interexchange being carried out through an attorney-in-fact common to all persons
6 involved.

7 (qq) ***“Reciprocal insure”*** means an unincorporated aggregation of
8 subscribers operating individually and collectively through an attorney-in-fact to
9 provide reciprocal insurance among themselves.

10 (rr) ***“Reinsurance”*** means the insurance ceded and accepted between two
11 insurers one of whom has effected the direct insurance.

12 (ss) ***“Signature”*** includes a mark when the signer or subscriber cannot
13 write, provided his name is written near the mark by a witness who also signs the
14 instrument together with a second witness.

15 (tt) ***“Solicit”*** means attempting to sell insurance or asking or urging a
16 person to apply for a particular kind of insurance from a particular company.

17 (uu) ***“Solicitor”*** means a person authorized by either the insurer or its
18 general agent or a sub-agent to act as its representative but whose duties and
19 authority are confined merely to soliciting insurance and aiding in the preparation
20 of applications for insurance.

21 (vv) ***“Sub-agent”*** means a person authorized by either the insurer or its
22 general agent to solicit applications, receive proposals, receive premiums, deliver
23 policies, and to make contracts of insurance. The receipt by a sub-agent of any
24 premiums shall bind the insurer on the contract of insurance for that period of time
25 covered by the premium payment.

26 (ww) ***“Terminate”*** means the cancellation of the relationship between an

1 insurance producer and the insurer or the termination of a producer's authority to
2 transact insurance.

3 (xx) "**Transact**" means, when applied to insurance, solicitation,
4 negotiations preliminary to execution, execution or transaction subsequent to
5 execution, or a contract of insurance or matters appertaining thereto.

6 (yy) "**Uniform Application**" means the current version of the NAIC
7 Uniform Application for resident and nonresident producer Licensing.

8 (zz) "**Uniform Business Entity Application**" means the current version of
9 the NAIC Uniform Business Entity Application for resident and nonresident
10 business entities.

11 (aaa) "**United States**" means its entire system and group of political
12 jurisdictions including the States, the District of Columbia, territories, possessions,
13 or commonwealths.

14 (bbb) "**Writing**" means any form of recorded message capable of
15 comprehension by ordinary visual means."

16 **Section 2.** Section 12111 is hereby *added* to Article 1, Chapter 12, Division 2
17 of Title 22 of the Guam Code Annotated to read as follows:

18 "**Section 12111. Jurisdiction.** (a) Notwithstanding any other
19 provision of law, and *exceptas* provided in this Section, any person or other entity
20 which provides insurance coverage on Guam for medical, surgical, chiropractic,
21 physical therapy, speech pathology, audiology, professional mental health, dental,
22 hospital or optometric expenses, whether the coverage is by direct payment,
23 reimbursement or otherwise, shall be *subject to* the jurisdiction of Guam, *unless* the
24 person or other entity shows that while providing services it is subject to the
25 exclusive jurisdiction of another agency on Guam or the Federal government.

26 (b) A person or entity may show that it is subject to the exclusive

1 jurisdiction of another agency on Guam or the Federal government, by providing
2 to the Insurance Commissioner the appropriate certificate, license or other
3 document issued by the other governmental agency which permits or qualifies it to
4 provide those services.

5 (c) Any person or entity which is unable to show under Subsection (b) of
6 this Section that it is subject to the exclusive jurisdiction of another agency on
7 Guam or the Federal government, shall submit to an examination by the Insurance
8 Commissioner to determine the organization and solvency of the person or the
9 entity, and to determine whether or not the person or entity complies with the
10 applicable provisions of this Code.

11 (d) Any person or entity unable to show that it is subject to the exclusive
12 jurisdiction of another agency on Guam or the Federal government, shall be subject
13 to all appropriate provisions of this Code regarding the conduct of its business. *If*
14 a person or entity is subject to the exclusive jurisdiction of another agency on Guam
15 or the Federal government, this fact shall be disclosed on all policy forms.

16 (e) Any production agency or administrator which advertises, sells,
17 transacts or administers the coverage on Guam described in Subsection (a) of this
18 Section, and which is required to submit to an examination by the Insurance
19 Commissioner under Subsection (c) of this Section, shall, *if* the coverage is *not*
20 fully insured, or otherwise fully covered by an admitted life or disability insurer,
21 nonprofit hospital service plan, or nonprofit health care plan, advise every
22 purchaser, prospective purchaser and covered person of such lack of insurance or
23 other coverage.”

24 **Section 3.** Section 12204 of Article 2, Chapter 12 of Title 22 of the Guam Code
25 Annotated is hereby *repealed and reenacted* to read as follows:

26 **“Section 12204. Same: General Powers.** The Commissioner shall have

1 the authority and powers as specifically conferred to him by this Title.”

2 **Section 4.** Section 12212 of Article 2, Chapter 12 of Title 22 of the Guam Code
3 Annotated is hereby *repealed and reenacted* to read as follows:

4 “**Section 12212. Regulations.** There are hereby authorized to be
5 promulgated such rules and regulations not inconsistent with law, as may be
6 reasonably necessary or appropriate for the administration of this Title and other
7 laws of Guam relating to insurance. Such regulations shall be promulgated,
8 amended, or repealed in accordance with the Administrative Adjudication Law.”

9 **Section 5.** Section 12213 of Article 2, Chapter 12, Division 2 of Title 22 of the
10 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

11 “**Section 12213. Practices Injurious to Free Competition.** No person
12 including the insurance commissioner shall directly enter into any contract,
13 understanding or combination with any insurer or manager, agent or representative
14 thereof for the purpose of, nor shall any such person or insurers jointly or severably
15 do any act or engage in any practice for the purpose of:

16 (a) controlling the rates to be charged, or the commissions or other
17 compensations to be paid, for insuring any risk or class of risks, *except* as
18 otherwise provided by law;

19 (b) entering into any agreement to commit, individually or by any
20 concerted action committing any act of boycott, coercion, or intimidation
21 resulting or tending to result in unreasonable restraint of, or a monopoly in,
22 the business of insurance, except as otherwise provided by law.”

23 **Section 6.** Section 12214 is hereby *added* to Article 2, Chapter 12, Division 2
24 of Title 22 of the Guam Code Annotated to read as follows:

25 “**Section 12214.** No insurer, nor any manager, agent or representative
26 thereof, shall enter into any contract, agreement, or understanding with any person

1 or entity for the purpose of, compelling that person or entity:

2 (a) to accept any fee schedule, claims payment method or schedule
3 or other such payment schedule or claims method *not* expressly written in
4 a contract between the person and the insurer; provided that no law in
5 conflict with this Title shall have the effect of prescribing any fee schedule,
6 claims payment method or schedule or such other payment schedule or
7 claims method *not* expressly written in a contract or policy negotiated
8 between the person and the insurer; provided that absent such terms being
9 expressly written in a contract, then the other relevant provisions contained
10 only in this Chapter shall control; *provided further* that in the event of any
11 conflict between this Section and the provisions of any other law, this
12 Section shall control. The Commissioner shall intervene on behalf of any
13 insurer to enforce the rights under this Section.”

14 **Section 7.** Article 3 is hereby *added* to Chapter 12, Division 2 of Title 22 of the
15 Guam Code Annotated to read as follows:

16 **“ARTICLE 3.**

17 **UNFAIR TRADE PRACTICES ACT.**

18 **Section 12301. Unfair methods and deceptive acts prohibited.**

19 **Section 12302 Authority.**

20 **Section 12303 Misrepresentations and false advertising**
21 **prohibited.**

22 **Section 12304. Twisting Prohibited.**

23 **Section 12305. Defamation prohibited.**

24 **Section 12306. Desist orders by commissioner; appeal;**
25 **violation of order.**

26 **Section 12307. Service of process upon unauthorized insurers.**

- 1 **Section 12308.** **Favored agent or insurer.**
2 **Section 12309.** **Interlocking ownership and management.**
3 **Section 12310.** **Unfair claims settlement practices.**
4 **Section 12311.** **Good faith.**
5 **Section 12312.** **False applications, claims and proofs of loss**
6 **prohibited.**
7 **Section 12313.** **Immunity.**
8 **Section 12314.** **Penalties.**
9 **Section 12315.** **Severability.**

10
11 **Section 12301. Unfair Methods and Deceptive Acts Prohibited.**

12 No person shall engage on Guam in any trade practice, which is defined in this
13 Article as or is determined pursuant to this Article to be an unfair method of
14 competition, or an unfair or deceptive act or practice in the business of insurance.

15 **Section 12302. Authority.** The Insurance Commissioner shall have the
16 authority to enforce laws relating to insurance fraud as stated in Section 12312. *If*
17 the Commissioner has evidence to support that a person has engaged in, or is
18 engaging in an act or practice that may constitute insurance fraud, or has
19 committed, or is about to commit, insurance fraud, the Commissioner may make
20 any investigation necessary inside or outside of Guam to determine whether *or not*
21 the act has occurred, or to aid in the enforcement of the laws relating to insurance
22 fraud.

23 **Section 12303. Misrepresentations and False Advertising**
24 **Prohibited.** (a) No person including the insurance commissioner shall
25 make, issue, circulate, or cause to be made, issued or circulated, any estimate,
26 circular or statement misrepresenting the terms of any policy issued, or to be issued,

1 or the benefits or advantages promised thereby, or the dividends or share of the
2 surplus to be received thereon;

3 (1) make any false or misleading statement as to the dividends or
4 share of surplus previously paid on similar policies;

5 (2) make any misleading representation or any misrepresentation
6 as to the financial condition of any insurer, or as to the legal reserve upon
7 which any life insurer operates; *or*

8 (3) use any name or title of any policy or class of policies
9 misrepresenting the true nature thereof.

10 (b) Only the words in the carrier's actual policy are actionable and falsely
11 written advertisements by the carrier about its actual policy shall *not* give rise to a
12 cause of action against the carrier; *provided*, the carrier or its licensed
13 representative is *not* in violation of Subsection (a) herein.

14 **Section 12304. Twisting Prohibited.** No person shall make or issue,
15 nor cause to be made or issued, any written statement misrepresenting or making
16 incomplete comparisons as to the terms, conditions or benefits contained in any
17 policy for the purpose of inducing or attempting to induce the policyholder to lapse,
18 forfeit, surrender, retain, exchange or convert any insurance policy.

19 **Section 12305. Defamation Prohibited.** No person shall make or aid,
20 abet or encourage the making in any manner in any communication medium of any
21 oral or written statement which is false or maliciously critical of or derogatory to
22 an insurer's financial condition, or of an organization proposing to become an
23 insurer, and which is made to injure any person engaged or proposing to engage in
24 the insurance business.

25 **Section 12306. Desist Orders by Commissioner; Appeal; Violation of**
26 **Order.** (a) *If* the Commissioner finds that any person on Guam, after a

1 hearing in which the person is notified of the hearing and the charges against that
2 person, has engaged or is engaging in any act or practice defined in or prohibited
3 under this Chapter, the Commissioner shall only order the person to desist from the
4 acts or practices.

5 (b) *If* there is an appeal, to the extent that the Commissioner's order is
6 affirmed, the Court shall issue its own order commanding obedience to the terms
7 of the Commissioner's order.

8 (c) No order of the Commissioner pursuant to this Section or order of the
9 Court to enforce it in any way relieves or absolves any person affected by the order
10 from any other liability, penalty or forfeiture under the law.

11 **Section 12307. Service of Process Upon Unauthorized Insurers.**

12 (a) Service of all process, statements of charges and notices under this
13 Chapter upon unauthorized insurers shall be made in accordance with this Code.

14 (b) The Commissioner shall forward all process, statements of charges
15 and notices to the insurer in the manner provided in this Code.

16 (c) No default shall be taken against any unauthorized insurer until
17 expiration of thirty (30) days *after* the date of forwarding by the Commissioner
18 under Subsection (b) of this Section, or date of service of process.

19 **Section 12308. Favored Agent or Insurer.** (a) No person shall

20 require as a condition to loaning money upon the security of any real or personal
21 property, or to the selling of that property under contract, that the owner of the
22 property to whom the money is to be loaned, or the vendee of the property being
23 sold, shall place, continue or renew any policy of insurance covering the property,
24 or covering any liability related to the property or the use thereof, through a
25 particular insurance agent or broker, or in a particular insurer. This *does not*
26 prevent the lender or vendor, upon a reasonable basis, from approving or

1 disapproving of the insurer and representative selected to underwrite the insurance,
2 but the basis for approval or disapproval shall relate *only* to:

3 (1) the adequacy and terms of the coverage with respect to the
4 interest of the vendor or lender to be insured thereunder; *and*

5 (2) the ability of the insurer or representative to service the policy.

6 **Section 12309. Interlocking Ownership and Management.** Any
7 insurer may retain, invest in or acquire the whole or any part of the capital stock of
8 any other insurer, or have a common management with any other insurer *unless* the
9 retention, investment, acquisition or common management is inconsistent with any
10 other provision of this Code, or *unless* by reason thereof the insurer's business with
11 the public is conducted in a manner which substantially lessens competition
12 generally in the insurance business, or tends to create any monopoly.

13 **Section 12310. Unfair Claims Settlement Practices.**

14 (a) A person is considered to be engaging in an unfair method of
15 competition and unfair and deceptive act or practice in the business of insurance *if*
16 that person commits or performs with such frequency as to indicate a general
17 business practice any of the following unfair claims settlement practices:

18 (1) failing to adopt and implement reasonable standards for the
19 prompt investigation of claims arising under insurance policies; *and*

20 (2) failing to provide a reasonable explanation of the basis for
21 denial of a claim.

22 **Section 12311. Good Faith.** An insurer is deemed to have acted
23 in good faith in the handling, processing, payment, settlement, negotiation,
24 adjustment, adjudication, denial or pending of any claim, so long as the insurer has
25 *not* violated §12310.

26 **Section 12312. False Applications, Claims and Proofs of Loss**

1 **Prohibited.** (a) No person shall knowingly:

2 (1) make any false or fraudulent statement or representation in or
3 with reference to any application for insurance, or for the purpose of
4 obtaining any money or benefit;

5 (2) present or cause to be presented a false or fraudulent claim, or
6 any proof in support of a claim for the payment of the loss upon a contract
7 of insurance; *or*

8 (3) prepare, make or subscribe a false or fraudulent certificate, or
9 other document with the intent that the certificate or other document may be
10 presented or used in support of the claim.

11 **Section 12313. Immunity.** A person acting without malice,
12 fraudulent intent, or bad faith is *not* subject to liability based on filing reports, or
13 furnishing, orally or in writing, other information concerning suspected, anticipated
14 or completed fraudulent acts against an insurance company *if* the reports or
15 information is provided to either: (1) the Commissioner; or (2) a law enforcement
16 officer. This Section does *not* affect or modify any statutory privilege or
17 immunity.

18 **Section 12314. Penalties.** Any person who violates §12312 shall be
19 fined Five Thousand Dollars (\$5,000.00). A penalty collected under this Section
20 shall be remitted to the Treasurer of Guam.

21 **Section 12315. Severability.** *If* any provision of this Article or its
22 application to any person or circumstance is found to be invalid or contrary to law,
23 such invalidity shall *not* affect other provisions or applications of this Law which
24 can be given effect without the invalid provisions or applications, and to this end
25 the provisions of this Law are severable.”

26 **Section 8.** Section 15103(h) of Article 1, Chapter 15, Division 2 of Title 22 of

1 the Guam Code Annotated is hereby *repealed* in its entirety.

2 **Section 9.** Section 15105(c) of Article 1, Chapter 15, Division 2 of Title 22 of
3 the Guam Code Annotated is hereby *repealed* in its entirety.

4 **Section 10.** Section 15106 of Article 1, Chapter 15, Division 2 of Title 22 of the
5 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

6 **“Section 15106. Refusal, Suspension or Revocation.** The Commissioner
7 may refuse to grant or renew a certificate, or may suspend or revoke a certificate,
8 for any one of the reasons provided in this section:

9 (a) The insurer's refusal or failure to comply with, or the violation
10 of, any of the provisions of this Title applicable to such insurer.

11 (b) The insurer is delinquent in the payment of any fees, licenses,
12 taxes, assessments, fines or penalties owed to the government of Guam, or
13 is otherwise in default for failure to comply with any of the laws of Guam;

14 (c) Whenever the insurer's actuary declares that the insurer's assets
15 are sufficient to meet generally, its liabilities.

16 (d) Whenever the insurer's actuary declares the insurer insolvent
17 or in an unsafe financial condition which would render any insurance of such
18 insurer unsafe.

19 (e) Whenever the insurer, or a then present officer or director of the
20 insurer, has been convicted of a felony having as one of its necessary
21 elements a fraudulent act or an act of dishonesty in the solicitation of,
22 acceptance, custody, or payment of money or property.”

23 **Section 11.** Section 15110 of Article 1, Chapter 15, Division 2 of Title 22 of the
24 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

25 **“Section 15110. Fees.** (a) The Commissioner shall collect in
26 advance the fees and licenses specified herein below. The fee stipulated in this

1 Section shall become due in full once the services specified therein have been
2 requested:

3	(1) Filing of application for certificate of authority	\$ 75.00
4	(2) Filing of application for renewal of certification	
5	of authority	\$ 37.50
6	(3) Filing of any other certificate, statement, paper	
7	or exhibit required by this Title	\$ 10.00
8	(4) Filing of new application after refusal to issue	
9	original certificate	\$ 75.00
10	(5) Filing of application for issuance of certificate	
11	after revocation or expiration	\$250.00
12	(6) Filing of application for withdrawal	\$ 10.00
13	(7) Furnishing copies of papers filed, per page	\$ 0.25
14	(8) Certifying copies of paper filed, per document	\$ 2.00
15	(9) Sales representative's license, for two years	\$ 30.00
16	(10) General agent's license, for two years	\$ 50.00
17	(11) Broker's license:	
18	(i) Resident broker, each year	\$ 25.00
19	(ii) Nonresident broker, each year	\$100.00
20	(iii) Surplus line broker, each year	\$100.00
21	(iv) Adjuster's license, for two years	\$ 50.00
22	(v) License of attorney-in-fact of	
23	insurer other than reciprocal	
24	or Lloyd's, each year	\$ 50.00

25 Fees paid in accordance with the provisions of this Section shall ~~not~~
26 be refundable under any circumstances.

1 (b) All funds deriving from this Section shall be deposited by the
2 Treasurer of Guam.”

3 **Section 12.** Section 15110.3 is hereby *added* to Article 1, Chapter 15, Division
4 2 of Title 22 of the Guam Code Annotated to read as follows:

5 “**Section 15110.3. Refunds.** *If* any person has paid to the Commissioner
6 a tax, license fee or other charge in error, or in excess of that which he is lawfully
7 bound to pay, the Commissioner shall make, or cause to be made, a refund thereof
8 as the Treasurer of Guam may prescribe. Refunds shall be made on account of tax
9 paid on premiums written because the insurance was cancelled, retroactive to the
10 date of issuance.”

11 **Section 13.** Section 15303(d) of Article 3, Chapter 15, Division 2 of Title 22 of
12 the Guam Code Annotated is hereby *repealed* in its entirety.

13 **Section 14.** Section 15313 of Article 3, Chapter 15, Division 2 of Title 22 of the
14 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

15 “**Section 15313. Insurer: Reserve.**(a) Every domestic insurer
16 authorized to transact, or transacting, insurance shall provide, hold and maintain
17 minimum reserves established by its actuary.

18 (b) The minimum reserves required by this Section to be maintained shall
19 be kept on deposit in such bank or banks, or shall be maintained in other financial
20 institutions, located on Guam *if* it is financially beneficial for the insurer to do so.
21 Such deposits shall at all times include lawful money of the United States or
22 securities of the types allowable as investments for domestic insurers under §15317
23 of this Title, or any combination of such money and such securities.”

24 **Section 15.** Section 15314 of Article 3, Chapter 15, Division 2 of Title 22 of the
25 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

26 “**Section 15314. Life Insurer: Policy.** Every life policy intended for

1 sale on Guam shall be approved by the Commissioner *prior to* such issuance as
2 provided in §18306; *provided*, that it shall contain in substance the following
3 provisions:

4 (a) a provision that the insured, *after* having paid in full three (3)
5 months premiums, is entitled to a grace period of *no more than* thirty-one
6 (31) days during which period of grace the policy shall continue in force;
7 *provided*, that in case the policy becomes a claim during any period of grace,
8 the amount of such premium due may be deducted from the amount payable
9 under the claim; *provided*, that any such premium due is *not* considered paid
10 until received by the insurer *before* the expiration of the grace period;
11 *provided*, that the only obligation of an insurer who receives any premium
12 received *after* the expiration of the grace period shall be to return the
13 premium;

14 (b) a provision that the policy shall be incontestable after it has
15 been in force, and shall have premiums paid in full during the lifetime of the
16 insured for a period of two (2) years from date of issue; *provided*, that *if* the
17 policy was reinstated, that the time for running the two (2) year contestability
18 period shall begin from the reinstatement date forward; *provided*, that any
19 policy which has had its face amount increased, the difference between the
20 original amount and the amount of increase shall mean that the increase shall
21 have a separate incontestability period which shall run that date the policy
22 was issued; *provided*, that no policy shall be considered to have met the
23 incontestability period *if* full premiums due have *not* been received by the
24 insurer *prior to* the time of death or expiration of the grace period, *if*
25 applicable;

26 (c) a provision that the policy as issued shall constitute the entire

1 contract between the parties; *provided*, that the insurer may make the
2 application for the policy a part of the contract by endorsing it upon, or
3 attaching it to, the policy, including any other endorsements the insurer
4 attaches and makes part of the policy;

5 (d) a provision that *if* the age of the insured has been misstated, the
6 amount payable under the policy shall be such as the premium would have
7 purchased at the correct age in accordance with the insurers table of premium
8 rates for the insured;

9 (e) a provision that in the event of default of any premium payment
10 after three (3) annual premiums shall have been paid in full on such policy,
11 the net value of such policy, which net value shall *beat least* equal to its
12 entire net reserve at the date of default, less a surrender charge *of not* more
13 than two and one-half percent (2 ½%) of the face amount of the policy, and
14 less any indebtedness to the company on or secured by the policy, shall be
15 applied as a single premium to the purchase of one (1) of the following
16 forms of insurance, *unless* the policyholder shall elect the cash surrender of
17 the policy:

18 (1) paid-up term insurance for such a period as the net value
19 outline above will purchase at the net single premium at the attained
20 age of the insured at the time of the lapse;

21 (2) paid-up insurance payable at the time and on the
22 conditions named in the policy for such an amount as the net value
23 outline above will purchase at the net single premium at the attained
24 age of the insured at the time of the lapse;

25 (f) a provision that in the event of default of any premium payment
26 *after* three (3) full annual premiums shall have been paid, the policy may be

1 surrendered to the insurer within sixty (60) *daysafter* the date of premium
2 default for a cash value, which shall be *at least* equal to the sum which
3 would be otherwise available for the purchase of paid-up insurance, as
4 provided above *if* the insured so elects; *and*

5 (g) a provision that a claim shall *not* be valid if no proof of
6 coverage exists; *provided*, that consideration paid shall *not* constitute proof
7 of coverage absent a policy issued and enforce under the name of the
8 claimant; *provided*, that in such case only the consideration shall be
9 returned.”

10 **Section 16.** Section 15316 of Article 3, Chapter 15, Division 2 of Title 22 of the
11 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

12 **“Section 15316. Supervision.** (a) (1) Every admitted domestic
13 insurer shall, on or before April 1 of each year, unless an extension is
14 granted, file with the Commissioner a financial statement, verified under
15 oath, setting forth its financial condition, transactions and affairs as of the
16 31st day of December immediately preceding, in general form and context
17 as approved by the National Association of Insurance Commissioners.

18 (2) The financial report shall report the financial condition of the
19 insurer as of the end of the most recent calendar year, changes in capital and
20 surplus for that year in conformity with statutory accounting practices. The
21 financial report must include the following:

22 (i) the report of the account;

23 (ii) a balance sheet that reports assets, liabilities, capital and
24 surplus;

25 (iii) a statement of gain or loss from operations;

26 (iv) a statement of cash flow; *and*

1 (v) a statement of changes in capital and surplus.

2 (b) The Commissioner shall make a detailed examination of any domestic
3 insurer once annually per calendar year;*provided*, that the cost of such examination
4 shall be paid by the Commissioner. The Commissioner may make a detailed
5 examination of every domestic insurer *at least* once every three (3) years;*provided*,
6 the cost of such examination shall be paid by the Commissioner.

7 (d) (1) In any case in which the Commissioner requests or requires the
8 opinion of an actuary under this Code, another insurance law of Guam,
9 including an opinion of a qualified actuary submitted in accordance with this
10 Code, the opinion is presumed to be accurate and valid and the Department
11 shall accept the opinion.

12 (e) When the assets of any domestic insurer, computed at their actual fair
13 value, are *less than* the aggregate amount of such insurer's liabilities and
14 outstanding capital stock, based on generally accepted accounting principals, the
15 Commissioner shall determine the amount of such impairment of capital and may
16 order such insurer to eliminate such impairment within such period as the
17 Commissioner shall designate, *not less than* twelve (12) months from the service
18 of the order. *If* the amount of such impairment is equal to or more than twenty-five
19 percent (25%) of the insurer's outstanding capital stock, or is such that the insurer
20 does *not* have the minimum capital required by this Title, the Commissioner may
21 suspend such insurer from issuing any new policies when such impairment exists.
22 *If* such impairment is *not* eliminated within the period designated by the
23 Commissioner, the Commissioner may by order suspend the insurer's certificate of
24 authority, and may apply to the Superior Court of Guam for an order upon such
25 insurer to show cause why its Articles should *not* be revoked, and a receiver
26 appointed to liquidate its affairs."

1 **Section 17.** Section 15317 of Article 3, Chapter 15, Division 2 of Title 22 of the
2 Guam Code Annotated is hereby *repealed*.

3 **Section 18.** Section 15402 of Article 4, Chapter 15, Division 2 of Title 22 of the
4 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

5 **“Section 15402. General Agents.** A foreign insurer shall *not* be granted
6 a certificate, *unless* and until it has duly complied with provisions of this Section:

7 (a) Duly appointed a licensed resident general agent who shall have
8 a power of attorney of the insurer which authorizes that person to appoint
9 subagents and solicitors for the insurer; *provided*, that the licensed resident
10 general agent and its subagents and solicitors shall *not* be liable for any claim
11 or administration of insurers business; *provided*, that the licensed resident
12 general agent shall *not* be liable for anything *not* specifically written in a
13 contract between the foreign insurer and the licensed resident general agent;
14 provided further, that *if* no written contract exists between the foreign insurer
15 and the licensed resident agent, then the licensed agent shall *only* be held to
16 the requirements specifically stated in (b) and (c) of this Section.

17 (b) Filed with the Commissioner its consent that its resident general
18 agent shall be authorized to accept service of process on its behalf for all
19 cases, and that such service shall constitute personal service upon such
20 insurer; *provided*, that the process shall name the foreign insurer and shall
21 *not* name the licensed resident agent.

22 (c) Filed with the Commissioner a power of attorney that the
23 resident general agent shall have authority to countersign all policies of the
24 *foreign insurer effected on risks in Guam.*”

25 **Section 19.** Section 15403 of Article 4, Chapter 15, Division 2 of Title 22 of the
26 Guam Code Annotated is hereby *amended* to read as follows:

1 **“Section 15403. Examination.** Whenever any foreign insurer applies
2 for admission, the Commissioner may cause to be made by the insurance authority
3 of the jurisdiction where such insurer is organized, an examination of its business
4 and affairs, and report of such examination be made to him. At such other times as
5 the Commissioner shall deem necessary and proper, he may cause a like
6 examination to be made. ~~The cost of such examination shall be paid by the insurer~~
7 ~~examined.~~ The cost of such examination shall be paid by the Commissioner.”

8 **Section 20.** Section 15404 of Article 4, Chapter 15, Division 2 of Title 22 of the
9 Guam Code Annotated is hereby *amended* to read as follows:

10 **“Section 15404. Annual Financial Statement.** Every admitted foreign
11 insurer shall, on or before April 1 of each year, unless an extension is granted file
12 with the Commissioner an annual financial statement, verified under oath, setting
13 forth its financial condition, transactions and affairs as of the 31st day of December
14 immediately preceding, in general form and context as approved by the National
15 Association of Insurance Commissioners, plus any additional information required
16 by the Commissioner.”

17 **Section 21.** Section 15501 of Article 5, Chapter 15, Division 2 of Title 22 of the
18 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

19 **“Section 15501. Scope of Article.** The provisions of this Article
20 shall be applicable *only* to alien insurers, *provided*, that such alien insurers are also
21 subject to all other provisions of this Title from which they are *not* otherwise
22 specifically exempted.”

23 **Section 22.** Section 15502 of Article 5, Chapter 15, Division 2 of Title 22 of the
24 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

25 **“Section 15502. General Agent.** An alien insurer shall *not* be granted
26 a certificate, *unless* and until it has complied with the provisions of this Section:

1 (a) duly appointed a licensed resident general agent who shall have
2 a power of attorney of the insurer which authorizes that person to appoint
3 subagents and solicitors for the insurer; *provided*, that the licensed resident
4 general agent and its subagents and solicitors shall *not* be liable for any claim
5 or administration of insurer's business; *provided*, that that the resident
6 general agent and its subagents and solicitors shall *not* be held liable for
7 anything *not* specifically written in a contract between the alien insurer and
8 the licensed resident general agent; *provided further*, that *if* no written
9 contract exists between the alien insurer and the licensed resident general
10 agent, then the licensed agents shall *only* be held to the requirements
11 specifically stated in Subsections (b) and (c) of this Section;

12 (b) filed with the Commissioner its consent that its resident general
13 agent shall be authorized to accept service of process on its behalf for all
14 cases, and that such service shall constitute personal service upon such
15 insurer; *provided*, that the process shall name the alien insurer and shall *not*
16 name the licensed resident agent; *and*

17 (c) filed with the Commissioner a power of attorney that the
18 resident general agent shall have authority to countersign all policies of the
19 foreign insurer effected on risks on Guam."

20 **Section 23.** Section 15505 of Article 5, Chapter 15, Division 2 of Title 22 of the
21 Guam Code Annotated is hereby *amended* to read as follows:

22 "Section 15505. Examination. Whenever any alien insurer applies
23 for admission, the Commissioner may cause to be made by the proper authority of
24 the jurisdiction where such insurer is organized, or if authorized to transact
25 insurance business in a United States jurisdiction other than Guam, by the insurance
26 authority of such other United States jurisdiction, an examination of its business

1 and financial affairs and report made to him thereon. At such other times as the
2 Commissioner shall deem necessary and proper, he may cause a like examination
3 to be made. The cost of such examination shall be paid by the ~~insurer examined~~
4 insurance commissioner.”

5 **Section 24.** Section 15701 of Article 7, Chapter 15, Division 2 of Title 22 of the
6 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

7 **“Section 15701. License: Requirements; Exceptions.**

8 **(a) Requirements.** A person shall not sell, solicit or negotiate
9 insurance in this state for any class or classes of insurance unless the person is
10 licensed for that line of authority in accordance with this Act, provided, that a
11 receipt issued by the Treasurer of Guam for payment of a license or renewal shall
12 constitute proof of a valid license. The fee for each type of license and renewal
13 thereof shall be Ten Dollars (\$10.00) per year, unless otherwise applied for under
14 Section 15118.

15 **(b) Exceptions.** Nothing in this Act shall be construed to require
16 an insurer to obtain an insurance producer license. The term "insurer" does not
17 include an insurer's officers, directors, shareholders, investors, stockholders,
18 employees, subsidiaries or affiliates.

19 A license as an insurance producer shall not be required of the following:

20 (1) An officer, director or employee of an insurer or an of an
21 insurance producer, provided that the officer, director or employee does not
22 receive any commission on policies written or sold to insure risks residing,
23 located or to be performed on Guam; and

24 (A) The officer, director, or employee's activities are
25 executive, administrative, managerial, clerical or a combination of
26 these, and are only indirectly related to the sale, solicitation or

1 negotiation of insurance; or

2 (B) The officer, director or employee's function relates to
3 underwriting, loss control, inspection or the processing, adjusting,
4 investing or settling of a claim on a contract of insurance; or

5 (C) The officer, director or employee is action in the capacity
6 of a special agent or agency supervisor assisting insurance producers
7 where the person's activities are limited to providing technical advice
8 and assistance to licensed insurance producers and do not include the
9 sale, solicitation or negotiation of insurance;

10 (2) A person who secures and furnishes information for the
11 purpose of group life insurance, group property and casualty insurance,
12 group annuities, group or blanket accident and health insurance; or for the
13 purpose of enrolling individuals under plans; issuing certificates under plans
14 or otherwise assisting in administering plans; or performs administrative
15 services related to mass marketed property and casualty insurance; where no
16 commission is paid to the person for the service;

17 (3) An employer or association or its officers, directors, employees,
18 or the trustees of an employee trust plan, to the extent that the employers,
19 officers, employees, director or trustees are engaged in the administration or
20 operation of a program of employee benefits for the employer's or
21 association's own employees or the employees of its subsidiaries or affiliates,
22 which program involves the use of insurance issued by an insurer, as long as
23 the employers, associations, officers, directors, employees or trustees are not
24 in any manner compensated, directly or indirectly, by the company issuing
25 the contracts;

26 (4) Employees of insurers or organizations employed by insurers

1 who are engaging in the inspection, rating or classification of risks, or in the
2 supervision of the training of insurance producers and who are not
3 individually engaged in the sale, solicitation or negotiation of insurance;

4 (5) A person whose activities in this state are limited to advertising
5 without the intent to solicit insurance in Guam through communications in
6 printed publications or other forms of electronic mass media whose
7 distribution is not limited to residents of Guam, provided that the person
8 does not sell, solicit or negotiate insurance that would insure risk residing,
9 located or to be performed on Guam;

10 (6) A person who is not a resident of Guam who sells, solicits or
11 negotiates a contract of insurance for commercial property and casualty risks
12 to an insured with risks located in more than one state insured under that
13 contract, provided that that person is otherwise licensed as an insurance
14 producer to sell, solicit or negotiate that insurance in the state where the
15 insured maintains its principal place of business and the contract of insurance
16 insures risks located in that state; or

17 (7) A salaried full-time employee who counsels or advises his or
18 her employer relative to the insurance interests of the employer or of the
19 subsidiaries or business affiliates of the employer provide that the employee
20 does not sell or solicit insurance or receive a commission.”

21 **Section 25.** Section 15702(e) of Article 7, Chapter 15, Division 2 of Title 22 of
22 the Guam Code Annotated is hereby *repealed* in its entirety.

23 **Section 26.** Section 15703 of Article 7, Chapter 15, Division 2 of Title 22 of the
24 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

25 **“Section 15703. Application for Examination.** (a) A resident
26 individual applying for an insurance producer license shall pass a written

1 examination unless exempt pursuant to Section 15705.3 Exemption for
2 Examination. The examination shall test the knowledge of the individual
3 concerning the lines of authority for which application is made, the duties and
4 responsibilities of an insurance producer and the insurance laws and regulations of
5 Guam. Examinations required by this Section shall be developed and conducted
6 under rules and regulations prescribed by the insurance commissioner.

7 (b) The insurance commissioner may make arrangements, including
8 contracting with outside testing service, for administering examinations and
9 collecting the nonrefundable fee set forth in this Act.

10 (c) Each individual applying for an examination shall remit a
11 nonrefundable fee as prescribed by the insurance commissioner as set forth in this
12 Code.

13 (d) The insurance commissioner may negotiate agreements with such
14 testing services to by a testing service as satisfying the examination requirements
15 of persons seeking license as agents, solicitors, counselors or adjustors under this
16 Code. The Commissioner may negotiate agreements with such testing services to
17 include performance of examination development, test scheduling examination site
18 arrangements, and test administration, grading, reporting and analysis. The
19 insurance commissioner may require such testing services to respond directly with
20 the applicants with regard to the administration of such examinations, and that such
21 testing services collect fees for administering such examinations directly from the
22 applicants. The insurance commissioner may stipulate that any agreements with
23 such testing services provide for the administration of examinations in specific
24 locales and at specified frequencies. The insurance commissioner shall retain the
25 authority to establish the scope and type of all examinations. Prior to negotiating
26 and making any agreement with any testing services as authorized hereby, the

1 insurance commissioner shall hold a public hearing thereon in accordance with the
2 provisions of this Title and shall adopt such rules, regulations and standards as the
3 insurance commissioner may prescribe by regulations adopted pursuant to the
4 Administrative Adjudication Law for the purposes of maintaining or improving
5 such person's insurance skills or knowledge.

6 (e) In the absence of an agreement with a testing service, the insurance
7 commissioner shall administer any required qualifying examination in accordance
8 with the provisions of the respective statutes governing the issuance of the license
9 sought by the applicant.

10 (f) Not later than the fifteenth (15th) day after the date on which a
11 licensing examination is administered under this Code, the insurance commissioner
12 shall notify each examinee of the results of the examination. However, if an
13 examination is graded or reviewed by a testing service, the insurance commissioner
14 shall notify examinees of the results of the examination not later than the fifth (5th)
15 day after the date the exam was administered from the testing service. If the notice
16 of examination results graded or reviewed by a testing service will be delayed for
17 longer than fifteen (15) days from the examination date, the insurance
18 commissioner shall notify the examinee of the reason for the delay before the
19 fifteenth (15th) day. If no notification is received by the 15th day the person shall
20 have all fees paid to the treasure refunded. The insurance commissioner may
21 require the testing service to notify examinees of the results of the examination.

22 (g) If requested in writing by a person who fails a licensing examination
23 administered under this Code, the insurance commissioner shall furnish the person
24 with an analysis of the person's performance on the examination.

25 (h) An individual who fails to appear for the examination as scheduled or
26 fails to pass the examination, shall reapply for an examination and remit all required



MINA' BENTE SAIS NA LIHESLATURAN GUAHAN
TWENTY-SIXTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910

COPY

9/24/01
(DATE)

Memorandum

To: Senator A. L. B. Santos

From: Clerk of the Legislature

Subject: Committee Report on Bill No. 94 (LS)

Pursuant to §7.04 of Rule VII of the 26th Standing Rules, transmitted herewith is a copy of the Committee Report on Bill No. 94 (LS), for which you are the prime sponsor.

Should you have any questions or need further information, please contact the undersigned at 472-3464/5.

Cecile E. Taitano

Attachment

received

09/25/01

1 fees and forms before being rescheduled for another examination.

2 **Section 27.** Section 15703.1 is hereby *added* to Article 7, Chapter 15, Division
3 2 of Title 22 of the Guam Code Annotated to read as follows:

4 **“Section 15703.1. Renewal of Licenses.** (a) A person may
5 renew an unexpired license by filing a renewal application with the Department in
6 the form prescribed by the Department and paying to the Department *before* the
7 expiration date of the license the required renewal fee. A renewal fee paid under
8 this Section is nonrefundable.

9 (b) *If* a person’s license has been expired for longer than one (1) year, the
10 person may *not* renew the license. The person may obtain a new license by
11 submitting to reexamination, *if* examination is required for original issuance of the
12 license, and complying with the requirements and procedures for obtaining an
13 original license. *However*, the Department may renew without reexamination an
14 expired license of a person who was licensed in Guam, moved to another state, and
15 is currently licensed and has been in practice in the other state preceding application
16 on Guam. The person must pay to the Department a fee that is equal to the license
17 fee.

18 (c) *At least* thirty (30) days before the expiration of a person’s license,
19 the Department shall send written notice of the impending license expiration to the
20 person at the person’s last known address according to the records of the
21 Department.

22 (d) The Department may waive any license requirement for an applicant
23 with a valid license from another state having license requirements substantially
24 equivalent to those of Guam.”

25 **Section 28.** Section 15703.2 is hereby *added* to Article 7, Chapter 15, Division
26 2 of Title 22 of the Guam Code Annotated to read as follows:

1 **"Section 15703.2. Continuing Education.** Participation in
2 continuing education programs is voluntary."

3 **Section 29.** Section 15704.1 is hereby *added* to Article 7, Chapter 15, Division
4 2 of Title 22 of the Guam Code Annotated to read as follows:

5 **"Section 15704.1. Application for License.** (a) A person
6 applying for a resident insurance producer license shall make application to the
7 insurance commissioner on the Uniform Application and declare under penalty of
8 refusal, suspension or revocation of the license that the statements made in
9 application are true, correct and complete to the best of the individual's knowledge
10 and belief. Before approving the application, the insurance commissioner shall find
11 that the individual:

12 (1) is at least eighteen (18) years of age;

13 (2) has not committed any act that is a ground for denial,
14 suspension or revocation set forth in Section 157119;

15 (3) has paid the fees set forth in this Title; *and*

16 (4) has successfully passed the examinations for the lines of
17 authority for which the person has applied.

18 (b) A business entity acting as an insurance producer is required to obtain
19 an insurance producer license. Application shall be made using the Uniform
20 Business Entity Application. Before approving the application, the insurance
21 commissioner shall find that:

22 (1) The business entity has paid the fees set forth in this Title; and

23 (2) The business entity has designated a licensed producer
24 responsible for the business entity's compliance with the insurance laws,
25 rules and regulations of Guam."

26 **Section 30.** Section 15704.2 is hereby *added* to Article 7, Chapter 15, Division

1 2 of Title 22 of the Guam Code Annotated to read as follows:

2 **“Section 15704.2. Licensing of Agents.** (a) No person,
3 corporation or bank shall act as an agent of any: (i) local mutual aid association,
4 (ii) local mutual burial association, (iii) statewide mutual assessment corporation,
5 (iv) government mutual insurance company, (v) casualty company writing accident
6 and health insurance, (vi) health maintenance organization, *or* (vii) any other type
7 of insurance carrier licensed to do business on Guam and which insurance carrier’s
8 agents are required to be licensed under the provisions of this Article, on the date
9 that this Chapter shall become effective, shall have first procured a license from the
10 Department as in this Article is provided, *unless* that individual or entity, and no
11 such insurance carrier shall appoint any person, corporation, or bank shall have
12 obtained a license under the provisions of this Article, and no such person,
13 corporation or bank who obtains a license shall engage in business as an agent until
14 that individual or entity shall have been appointed to act as an agent by some duly
15 authorized insurance carrier designated by the provisions of this Article, and
16 authorized to do business on Guam. Any person, corporation or bank desiring to
17 act as an agent of any insurance carrier licensed to do business on Guam and
18 writing health and accident insurance may obtain a separate license as an agent to
19 write health and accident insurance; *provided*, such person, corporation or bank
20 complies with the provisions of this Article and has been appointed to act as an
21 agent by some duly authorized insurance carrier authorized to do health and
22 accident insurance business on Guam.

23 (b) No insurer or licensed insurance agent doing business on Guam shall
24 pay directly or indirectly any commission, or other valuable consideration, to any
25 person, corporation or bank for services as an insurance agent within Guam, *unless*
26 such person, corporation or bank shall hold a currently valid license to act as an

1 insurance agent as required by the laws of Guam; nor shall any person, corporation,
2 or bank other than a duly licensed agent, accept any such commission or other
3 valuable consideration.

4 (c) Unless denied licensure pursuant to this Section, persons who have
5 met the requirements of Sections 15703 and 15704.1 shall be issued an insurance
6 producer license. An insurance producer may receive qualification for a license in
7 one or more of the following lines of authority:

8 (1) Life-insurance coverage on human lives including benefits of
9 endowment and annuities, and may include benefits in the event of death or
10 dismemberment by accident and benefits for disability income.

11 (2) Accident and health or sickness-insurance coverage for
12 sickness, bodily injury or accidental death and may include benefits for
13 disability income.

14 (3) Property-insurance coverage for the direct or consequential loss
15 or damage to property of every kind.

16 (4) Casualty-insurance coverage against legal liability, including
17 that for death, injury or disability or damage to real or personal property.

18 (5) Variable life and variable annuity products-insurance coverage
19 provided under variable life insurance contracts and variable annuities.

20 (6) Personal lines-property and casualty insurance coverage sold to
21 individuals and families for primarily noncommercial purposes.

22 (7) Credit-limited line credit insurance.

23 (8) Any other line of insurance permitted under state laws or
24 regulations.

25 (d) An insurance producer license shall remain in effect unless revoked
26 or suspended as long as the fee set forth in this Title is paid.

1 (e) A licensed insurance producer who is unable to comply with license
2 renewal procedures due to military service or some other extenuating circumstance
3 may request a waiver of those procedures. The producer may also request a waiver
4 of any examination requirement or any other fine or sanction imposed for failure
5 to comply with renewal procedures.

6 (f) The license shall contain the licensee's, name, address, personal
7 identification number, and the date of issuance, the lines of authority, the expiration
8 date and any other information the insurance commissioner deems necessary.

9 (g) Licensees shall inform the insurance commissioner by any means
10 acceptable to the insurance commissioner of a change of address within ninety (90)
11 days of the change.

12 (h) In order to assist in the performance of the insurance commissioner's
13 duties, the insurance commissioner may contract with non-governmental entities,
14 including the National Association of Insurance Commissioner (NAIC) or any
15 affiliates or subsidiaries that the NAIC oversees, to perform any ministerial
16 functions, including the collection of fees, related to producer licensing that the
17 insurance commissioner and the non-governmental entity may deem appropriate."

18 **Section 31.** Section 15705.1 is hereby *added* to Article 7, Chapter 15, Division
19 2 of Title 22 of the Guam Code Annotated to read as follows:

20 **"Section 15705.1. Discipline of License Holders.** (a) Upon
21 conviction of a felonious Act, the Department may refuse to issue an original
22 license, revoke, suspend or refuse to renew a license, place on probation a person
23 whose license has been suspended, assess an administrative penalty as specifically
24 prescribed herein or reprimand a license holder.

25 (b) *If* the Department proposes to refuse to issue an original license, or
26 to suspend, revoke or refuse to renew a license, the person affected is entitled to a

1 hearing conducted within five (5) days after receiving notice from the
2 Commissioner of any disciplinary action. Notice of the hearing shall be provided
3 to the person and to any insurance carrier appearing on the application as desiring
4 that the license be issued. The Commissioner shall issue a final ruling on the issue
5 within five (5) days after the hearing. The license holder may appeal the
6 Commissioner's order to the Superior Court of Guam. The court shall have *de*
7 *novo* review."

8 **Section 32.** Section 15705.2 is hereby added to Article 7, Chapter 15, Division
9 2 of Title 22 of the Guam Code Annotated to read as follows:

10 **"Section 15705.2. Nonresident Licensing.** (a) Unless denied
11 licensure pursuant to Section 157119, a nonresident person shall receive a
12 nonresident producer license if:

13 (1) the person is currently licensed as a resident and in good
14 standing in his or her home state;

15 (2) the person has submitted the proper request for licensure and
16 has paid the required fees;

17 (3) the person has submitted or transmitted to the insurance
18 commissioner the application for licensure that the person submitted to his
19 or her home state, or in lieu of the same, a completed Uniform Application;
20 *and*

21 (4) the person's home state awards non-resident producer licenses
22 to residents of this state on the same basis.

23 (b) The insurance commissioner may verify the producer's licensing
24 status through the Producer Database maintained by the National Association of
25 Insurance Commissioners, its affiliates or subsidiaries.

26 (c) A nonresident producer who moves from one state to another state or

1 a resident producer who moves from this state to another state shall file a change
2 of address and provide certification from the new resident state within thirty (30)
3 days of the change of legal residence. No fee or license application is required.

4 (d) Notwithstanding any other provision of this Act, a person licensed as
5 a surplus lines producer in his or her home state shall receive a nonresident surplus
6 lines producer license pursuant to Subsection (a) of this Section. Except as to
7 Subsection (a), nothing in this Section otherwise amends or supercedes any
8 provision regulating excess and surplus lines.

9 (e) Notwithstanding any other provision of this Act, a person licensed as
10 a limited line credit insurance or other type of limited lines producer in his or her
11 home state shall receive a nonresident limited lines producer license, pursuant to
12 Subsection A of this section, granting the same scope of authority as granted under
13 the license issued by the producer's home state. For the purposes of Section
14 15705.2, limited line insurance is any authority granted by the home state which
15 restricts the authority of the license to less than the total authority prescribed in the
16 associated major lines pursuant to Section 157113."

17 **Section 33.** Section 15705.3 is hereby added to Article 7, Chapter 15, Division
18 2 of Title 22 of the Guam Code Annotated to read as follows:

19 **"Section 15705.3. Exemption from Examination.** (a) An
20 individual who applies for an insurance producer license in this state who was
21 previously licensed for the same lines of authority in another state shall not be
22 required to complete any prelicensing education or examination. This exemption
23 is only available if the person is currently licensed in that state or if the application
24 is received within ninety (90) days of the cancellation of the applicant's previous
25 license and if the prior state issues a certification that, at the time of cancellation,
26 the applicant was in good standing in that state or the state's Producer Database

1 records, maintained by the National Association of Insurance Commissioners, its
2 affiliates or subsidiaries, indicate that the producer is or was licensed in good
3 standing for the line of authority requested.

4 (b) A person licensed as an insurance producer in another state who
5 moves to this state shall make application within ninety (90) days of establishing
6 legal residence to become a resident licensee pursuant to Section 15710. No
7 prelicensing education or examination shall be required of that person to obtain any
8 line of authority previously held in the prior state except where the insurance
9 commissioner determines otherwise by regulation.”

10 **Section 34.** Section 15705.4 is hereby added to Article 7, Chapter 15, Division
11 2 of Title 22 of the Guam Code Annotated to read as follows:

12 “**Section 15705.4. Assumed Names.** An insurance producer doing
13 business under any name other than the producer’s legal name is required to notify
14 the insurance commissioner prior to using the assumed name.”

15 **Section 35** Section 15710 of Article 7, Chapter 15, Division 2 of Title 22 of the
16 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

17 “**Section 15710. Insurance Adjusters.** No person, *except* a person
18 otherwise licensed under this Article, shall make any adjustment under an insurance
19 policy covering hazards described in Article 1 of Chapter 18 of this Title, unless
20 that person shall hold a license under this Section, or is exempted therefrom.

21 (a) The Commissioner may issue an adjuster’s license to any
22 person filing an application on a prescribed form, and upon payment of a
23 license fee of Ten Dollars (\$10.00). Licenses and renewals thereof shall be
24 for a term expiring one (1) year *after* the date of issue, *unless* otherwise
25 specified in this Title.

26 (b) Any license under this Section may be refused, suspended or

1 revoked for any of the reasons set forth in Section 15705 of this Title, and
2 in the manner so provided therein.”

3 **Section 36.** Section 157111 is hereby *added* to Article 7, Chapter 15, Division
4 2 of Title 22 of the Guam Code Annotated to read as follows:

5 **“Section 157111. Statutory References.** A reference in this Article to
6 a statutory provision applies to all reenactments, revisions or amendments of that
7 provision.”

8 **Section 37.** Section 157113 is hereby *added* to Article 7, Chapter 15, Division
9 2 of Title 22 of the Guam Code Annotated to read as follows:

10 **“Section 157113. Application for License; to Whom License May be**
11 **Issued. (a) Definitions.**

12 (1) In this Section, ‘*person*’ means an individual or business entity.
13 The term ‘*partnership*’ or ‘*agency partnership*,’ as used in this Section
14 means a general partnership or a registered limited liability partnership.

15 (2) In this Section, the term ‘*corporation*’ shall mean a corporation
16 organized under the general corporation laws of Guam, or a Guam domiciled
17 limited liability company organized or existing under Guam’s Limited
18 Liability Company Act having its principle place of business on Guam and
19 having as one (1) of its purposes the authority to act as an insurance agent.
20 The licensing and regulation of a limited liability company shall be *subject*
21 *to* the same provisions and requirements of this Article that are applicable to
22 corporations licensed under this Article.

23 (3) In this Article, ‘*bank*’ means a national banking association
24 organized and existing under the National Bank Acts (12 U.S.C. §21, *et*
25 *seq.*), a state bank organized and existing under the banking laws of Guam,
26 a Savings Bank organized and existing under the banking laws of Guam, a

1 bank branch, or a bank operating subsidiary, as defined by Guam or Federal
2 law, that is located and doing business on Guam.

3 **(b) Application for License; to Whom License May be Issued.**

4 (1) Any person, corporation or bank that desires to become an
5 agent for a local mutual aid association, a local mutual burial association, a
6 government mutual assessment corporation, a government mutual insurance
7 company, a casualty company writing accident and health insurance
8 company, or any other type of insurance carrier licensed to do business on
9 Guam, the agents of which are required to be licensed under this Article,
10 shall submit to the Department an application for a license in the form
11 required by the Department.

12 (2) The application must bear a signed endorsement by an officer
13 or properly authorized representative of the insurance carrier that the
14 individual applicant or the responsible officer and employee of the bank is
15 qualified to hold that individual or the partnership, or the bank out in good
16 faith to the general public as an insurance agent and that the insurance
17 carriers desires that the applicant act as an insurance agent to represent it on
18 Guam; *provided*, that *if* no written agency contract exists between the
19 resident general agent and the insurer that the provisions contained within
20 this Title shall control.

21 (3) The Department shall issue a license to an individual or to a
22 general partnership or corporation engaging in the business of insurance.
23 Nothing contained herein shall be construed to permit any unlicensed
24 employee or agent of any corporation to perform any act of an agent under
25 this Article without obtaining a license.

26 (4) The Department shall issue a license to a bank *if* the

1 Department finds that: (i) the bank satisfies the definition of this Article, (ii)
2 *at least* one (1) officer of the bank and each individual who will be
3 performing any acts as an agent for the bank are individually licensed under
4 this Article, (iii) the bank shall pay gross receipt taxes on the commission or
5 fee income or income it receives; *provided*, that should there be any law in
6 conflict with this provision that this Section shall control in so far as it deals
7 with income derived from activities related to the business of insurance *and*
8 (iv) the bank will have the ability to pay any sums up to Twenty-five
9 Thousand Dollars (\$25,000.00) that it might become legally obligated to pay
10 on account of any claim made against it by a customer and caused by a
11 negligent act, error or omission of the bank, or any person for whose acts the
12 bank is legally liable in the conduct of its business under this Article. Banks
13 shall *not* force or induce any customer into buying, transferring or rolling
14 over any insurance coverage in favor of coverage which the bank will
15 directly or indirectly receive a fee income, commission or income.

16 Banks may sell insurance and may replace, transfer or rollover
17 coverage *if* it is in the best interest of the customer to do so. The term *best*
18 *interest*' shall include, but *not* be limited to: an explanation between the
19 coverage and price of a product the bank is offering versus the coverage the
20 customer currently has in force. Comparing companies financial strength
21 shall *not* be permitted, or any other activity in violation of this Title. The
22 term '*customer*' means any person, firm or corporation to whom the banks
23 sells or attempts to sell a policy of insurance, or from whom the bank accepts
24 an application for insurance. That ability shall be proven through: (a) an
25 errors and omissions policy insuring the bank against errors and omissions
26 in *at least* the sum of One Hundred Thousand Dollars (\$100,000.00) with

1 *not more than* a Ten Thousand Dollar (\$10,000.00) deductible feature,
2 issued by an insurance company licensed to do business on Guam, *or if* a
3 policy cannot be obtained from a company licensed to do business on Guam,
4 a policy issued by a company *not* licensed to do business on Guam upon
5 filing an affidavit with the Department stating the inability to obtain
6 coverage; (b) a bond executed by the bank as principal and a surety company
7 authorized to do business on Guam, as surety, in the principal sum of
8 Twenty-five Thousand Dollars (\$25,000.00), payable to the Department for
9 the use and benefit of customers of the bank, conditioned that the bank shall
10 pay any final judgment recovered against it by a customer; or (c) a deposit
11 with the comptroller of cash or securities, with a fair market value of
12 Twenty-five Thousand Dollars (\$25,000.00).

13 The comptroller shall accept and receive the deposit and hold it
14 *exclusively* for the protection of a customer of the bank who recovers a final
15 judgment against the bank. The deposit may be withdrawn *only* upon filing
16 with the Department satisfactory evidence that the bank has withdrawn from
17 the business of insurance and has no unsecured liabilities outstanding or that
18 the bank has provided for the protection of its customers by furnishing an
19 errors and omissions policy or a bond as provided by this Subsection.
20 Securities so deposited may be exchanged from time to time for other
21 qualified securities. A binding commitment to issue such a policy or bond,
22 or the tender of applicable securities, is sufficient in connection with an
23 application for license. Nothing in this Subsection permits an unlicensed
24 employee or agent of a bank to perform any act of an agent under this Article
25 without obtaining a license, *except* that no bank, partnership, corporation or
26 any other legal business entity needs to procure an insurance license to sell

1 credit life, mortgage life or personal accident insurance. A bank licensed as
2 an agent under this Article must maintain the insurance records of the bank,
3 including all files relating to customer complaints, separate from records
4 relating to the banking transactions of the bank. *If* at any time, a bank that
5 holds an agent's license does *not* maintain the qualifications necessary to
6 obtain a license, the license of that bank to act as an agent shall be canceled
7 or denied in accordance with this Article. Each bank licensed as an agent
8 under this Article shall file under oath with its application for license renewal
9 a list of the name and address of each individual who will be acting as an
10 agent on behalf of the bank.”

11 **Section 38.** Section 157114 is hereby *added* to Article 7, Chapter 15, Division
12 2 of Title 22 of the Guam Code Annotated to read as follows:

13 **“Section 157114. Persons Other Than Licensed Agents Who May Share**
14 **in Profits of an Agent.** (a) On the death of a licensed agent who is a member
15 of an agency partnership, the surviving spouse and children *if* any, of the deceased
16 partner, or a trust for the surviving spouse and children, may share in the profits of
17 such agency partnership during the lifetime of the surviving spouse or children, as
18 the case may be, as provided by a written partnership agreement, or in the absence
19 of any written agreement, as agreed by the surviving partner(s) and the surviving
20 spouse, the trustee and the legal representative of the surviving child or children.

21 (b) On the death of a licensed agent, who is a sole proprietorship, *unless*
22 otherwise provided by the will admitted to probate of that deceased agent, the
23 surviving spouse and children, *if* any, of the deceased agent, or a trust for the
24 surviving spouse or children, may share in the profits of the continuance of the
25 agency business of the deceased agent, *if* the agency business is continued by a
26 licensed agent. The surviving spouse, trusts or children may participate in the

1 profits during the lifetime of the surviving spouse and children. The surviving
2 spouse, trusts or children are *not* required to qualify as agents in order to participate
3 in the profits of the agency, but may *not* do or perform any act of an agent in
4 connection with the continuance of the agency business without first having been
5 licensed as an agent. A licensed agent who is a sole proprietorship may transfer an
6 interest in that person's agency to his children, or at trust for that person's children,
7 and may operate that interest for their use and benefit. The children may share in
8 the profits of the agency during their lifetime, and during that time may *not* be
9 required to qualify as an agent in order to participate in those profits, but may *not*
10 perform any act of an agent in connection with the agency business without first
11 having been licensed as an agent.

12 (c) On the death of a shareholder in a corporate licensed agency, the
13 surviving spouse and children, *if* any, of the deceased shareholder, or a trust for
14 the surviving spouse and children may share in the profits of the corporate agency
15 during the lifetime of the surviving spouse or children as provided by a contract
16 entered into by and between all of the shareholders and the corporation. A
17 surviving spouse, surviving children or trusts are *not* required to individually
18 qualify as an agent in order to participate in the profits, but may *not* perform any
19 act of an agent on behalf of the corporation without having qualified as an agent.

20 A shareholder in a corporate licensed agency may, *if* provided by a contract
21 entered into by and between all of the shareholders and the corporation, transfer an
22 interest in the agency to that person's children, or a trust for that person's children.

23 The children or trusts may share in the profits of the agency to the extent of that
24 interest during their lifetime. The children or trusts may *not* be required to qualify
25 as an agent to participate in those profits, but may *not* perform any act of an agent
26 on behalf of the corporation without having qualified as an agent."

1 **Section 39.** Section 157115 is hereby *added* to Article 7, Chapter 15, Division
2 of Title 22 of the Guam Code Annotated to read as follows:

3 **“Section 157115. Issuance of License Under Certain Circumstances.**

4 The Department shall issue a license to a person, corporation or bank in such
5 form as it may prepare authorizing such applicant to write the types of insurance
6 authorized by law to be issued by applicant’s appointing insurance carrier, *except*
7 that: the Commissioner shall issue a license to a person or corporation in such form
8 as the Department may prepare authorizing such applicant to write the types of
9 insurance authorized by law to be issued by applicant’s appointing insurance
10 carrier, *except* that:

11 (a) such applicant shall *not* be authorized to write health and
12 accident insurance, *unless*: (i) applicant, *if* not a partnership, corporation or
13 bank shall have first passed a written examination as provided for in this
14 Article, or (ii) applicant will act only as a ticket-selling agent of a public
15 carrier with respect to accident life insurance covering risks of travel, or as
16 an agent selling credit life, health and accident insurance issued exclusively
17 in connection with credit transactions, or (iii) applicant will write policies or
18 riders to policies providing *only* lump sum cash benefits in the event of the
19 accidental death or death by accidental means, or dismemberment, or
20 providing *only* ambulance expense benefits in the event of accident or
21 sickness; *and*

22 (b) such applicant, *if* not a partnership, corporation or bank shall
23 *not* be authorized to write life insurance in excess of Ten Thousand Dollars
24 (\$10,000.00) upon any one (1) life, *unless*: (i) applicant, *if* not a
25 partnership, corporation or bank shall have first passed a written examination
26 as provided for in this Article, *or* (ii) applicant will act only as a ticket-

1 selling agent of a public carrier with respect to accident life insurance
2 covering risks of travel, or as an agent selling credit life, health and accident
3 insurance issued *exclusively* in connection with credit transactions, or (iii)
4 applicant will write policies or riders to policies providing *only* lump sum
5 cash benefits in the event of the accidental death, or death by accidental
6 means, or dismemberment, or providing only ambulance expense benefits in
7 the event of accident or sickness.”

8 **Section 40.** Section 157116 is hereby *added* to Article 7, Chapter 15, Division
9 2 of Title 22 of the Guam Code Annotated to read as follows:

10 **“Section 157116. Examination of Applicant for License to Write**
11 **Insurance.** (a) Each applicant for a license under the provisions of this
12 Article who desires to write property and casualty, life, health, accident and
13 sickness, and other types of insurance within Guam shall submit to a personal
14 written examination prescribed by the Department to determine the applicant’s
15 competency with respect to insurance license the applicant is applying for, *except*
16 that no written examination shall be required of: (i) an applicant for the renewal of
17 a license issued by the Department pursuant to this Article, which is currently in
18 force at the effective date of this Act; (ii) an applicant whose license expired *less*
19 *than one (1) year prior to* the date of application may be issued a license without
20 written examination; *provided*, such prior license granted such applicant the right
21 to sell insurance; or (iii) an applicant that is partnership, corporation or bank.

22 (b) The Department may designate text books, manuals and other
23 materials to be studied by applicants in preparation for examination pursuant to this
24 Section. All examination questions shall be prepared from the contents of the text
25 books, manuals and other materials designated or prepared by the Department
26 pursuant to this Section and such questions shall be limited to and substantially

1 similar to the questions relating to the type of insurance the applicant is applying
2 for contained in the written examination prescribed by the Department pursuant to
3 this Insurance Code. *Unless* the Department accepts a qualifying examination
4 administered by a testing service, as provided under this Title, the Department may
5 charge each applicant a fee in an amount *not to exceed* Fifty Dollars (\$50.00) for
6 the privilege of taking such written examination and which fee shall *not* be
7 returned under any circumstance other than for failure to appear and take the
8 examination, or the applicant has not received a notice of the applicants
9 performance within fifteen (15) days after the examination date. A new
10 examination fee shall be paid for each and every examination. After the
11 Department shall determine that such applicant has successfully passed the written
12 examination or it has been waived, the Department shall forthwith issue a license
13 to such applicant, which shall also authorize such applicant to write insurance for
14 the designated insurance carrier.”

15 **Section 41.** Section 157117 is hereby *added* to Article 7, Chapter 15, Division
16 2 of Title 22 of the Guam Code Annotated to read as follows:

17 **“Section 157117. Failure of Applicant to Qualify for License.**

18 *If* the applicant for a license, *if* required to do so, has *not* passed the written
19 examination, the Department shall within fifteen (125) days from the examination
20 date, notify the applicant in writing that the license will *not* be issued.”

21 **Section 42.** Section 157118 is hereby *added* to Article 7, Chapter 15, Division
22 2 of Title 22 of the Guam Code Annotated to read as follows:

23 **“Section 157118. Agent May be Licensed to Represent Multiple**
24 **Insurers.** (a) Any agent licensed under this Article may represent and act as
25 an agent for *more than* one (1) insurance carrier at any time while the agent’s
26 license is in force, *if* the agent so desires. Any such agent and the insurance carrier

1 involved must give notice to the Department of any additional appointment or
2 appointments authorizing the agent to act as an agent for an additional insurance
3 carrier or carriers. The agent shall be required to pay a fee in an amount stated in
4 this Code, which fee shall accompany the notice. *If* approval of the additional
5 appointment is *not* received from the Department *before* the fifth day after the
6 date on which the completed application and fee were received by the Department,
7 the agent and the insurance carrier, in the absence of notice of disapproval, shall
8 assume that the Department approves the application, and the agent may act for the
9 insurance carrier.

10 (b) An appointment made under this Article to authorize an agent to act
11 as an agent for an insurance carrier continues in effect without the necessity of
12 renewal until it is terminated and withdrawn by the insurance carrier as provided
13 by this Section, or is otherwise terminated in accordance with this Title. Each
14 renewal license issued to the agent authorizes the agent to represent and act for the
15 insurance carriers for which the agent holds an appointment until the appointment
16 is terminated, and that agent is considered to be the agent of the appointing
17 insurance carriers for the purposes of this Article.

18 (c) An agent representing multiple insurers shall not have his entire
19 license revoked, suspended or otherwise, but only that portion of his license with
20 the reflected insurer. The rest of the license shall remain in effect.”

21 **Section 43.** Section 157119 is hereby *added* to Article 7, Chapter 15, Division
22 2 of Title 22 of the Guam Code Annotated to read as follows:

23 **“Section 157119. License Denial, Non-renewal or Revocation.**

24 (a) The insurance commissioner may place on probation, suspend, revoke
25 or refuse to issue or renew an insurance producer’s license for any one or more of
26 the following causes:

1 (1) Providing incorrect, misleading, incomplete or materially
2 untrue information in the licensing application;

3 (2) Violating any insurance laws that contain monetary penalties or
4 subpoena or order of the insurance commissioner or of another state's
5 insurance commissioner;

6 (3) Obtaining or attempting to obtain a license through
7 misrepresentation or fraud;

8 (4) Improperly withholding, misappropriating or converting any
9 monies or properties received in the course of doing insurance business;

10 (5) Intentionally misrepresenting the terms of an actual or proposed
11 insurance contract or application for insurance;

12 (6) Having been convicted of a felony;

13 (7) Having admitted or been found to have committed any
14 insurance unfair trade practice or fraud;

15 (8) Using fraudulent, coercive, or dishonest practices, or
16 demonstrating incompetence, in the conduct of business in this state or
17 elsewhere;

18 (9) Having an insurance producer license, or its equivalent, denied,
19 suspended or revoked in any other state, province, district or territory;

20 (10) Forging another's name to an application for insurance or to
21 any document related to an insurance transaction;

22 (11) Improperly using notes or any other reference material to
23 complete an examination for an insurance license;

24 Knowingly accepting insurance business from an individual who is
25 not licensed;

26 (13) Failing to comply with an administrative or court order

1 imposing a child support obligation; or

2 (b) In the event that the action by the insurance commissioner is to non-
3 renew or to deny an application for a license, the insurance commissioner shall
4 notify the applicant or licensee and advise, in writing, the applicant or licensee of
5 the reason for the denial or non-renewal of the applicant's or licensee's license.
6 The applicant or licensee may make written demand upon the insurance
7 commissioner within thirty (30) days for a hearing before the insurance
8 commissioner to determine the reasonableness of the insurance commissioner's
9 action. The hearing shall be held within five (5) days and shall be held pursuant to
10 the requirements of the Administrative Adjudication Law. The courts shall have
11 *de novo* review.

12 (c) The license of a business entity may be suspended, revoked or refused
13 if the insurance commissioner finds, after hearing, that an individual licensee's
14 violation was known or should have been known by one or more of the partners,
15 officers or managers acting on behalf of the partnership or corporation and the
16 violation was neither reported to the insurance commissioner nor corrective action
17 taken.

18 (d) The insurance commissioner shall retain the authority to enforce the
19 provisions of and impose any penalty or remedy authorized by this Act and Title
20 against any person who is under investigation for or charged with a violation of this
21 Act or Title even if the person's license or registration has been surrendered or has
22 lapsed by operation of law."

23 **Section 44.** Section 157119.1 is hereby *added* to Article 7, Chapter 15, Division
24 2 of Title 22 of the Guam Code Annotated to read as follows:

25 **"Section 157119.1. Commissions.** (a) An insurance company
26 or insurance producer shall not pay a commission, service fee, brokerage or other

1 valuable consideration to a person for selling, soliciting or negotiating insurance in
2 this state if that person is required to be licensed under this Act and is not so
3 licensed.

4 (b) A person shall not accept a commission, service fee, brokerage or
5 other valuable consideration for selling, soliciting or negotiating insurance in this
6 state if that person is required to be licensed under this Act and is not so licensed.

7 (c) Renewal or other deferred commissions may be paid to a person for
8 selling, soliciting or negotiating insurance in this state if the person was required
9 to be licensed under this Act at the time of the sale, solicitation or negotiation and
10 was so licensed at that time.

11 (d) An insurer or insurance producer may pay or assign commissions,
12 service fees, brokerages or other valuable consideration to an insurance agency or
13 to persons who do not sell, solicit or negotiate insurance in this state, unless the
14 payment would violate provisions of this statute.”

15 **Section 45.** Section 157120 is hereby *added* to Article 7, Chapter 15, Division
16 2 of Title 22 of the Guam Code Annotated to read as follows:

17 **“Section 157120. Temporary Licensing.** (a) The insurance
18 commissioner may issue a temporary insurance producer license for a period not
19 to exceed one hundred eighty (180) days without requiring an examination if the
20 insurance commissioner deems that the temporary license is necessary for the
21 servicing of an insurance business in the following cases:

22 (1) To the surviving spouse or court-appointed personal
23 representative of a licensed insurance producer who dies or becomes
24 mentally or physically disabled to allow adequate time for the sale of the
25 insurance business owned by the producer or for the recovery or return of the
26 producer to the business or to provide for the training and licensing of new

1 personnel to operate the producer's business;

2 (2) To a member or employee of a business entity licensed as an
3 insurance producer, upon the death or disability of an individual designated
4 in the business entity application or the license;

5 (3) To the designee of a licensed insurance producer entering active
6 service in the armed forces of the United States of America; *or*

7 (4) In any other circumstance where the insurance commissioner
8 deems that the public interest will best be served by the issuance of this
9 license.

10 The insurance commissioner may by order limit the authority of any
11 temporary licensee in any way deemed necessary to protect insureds and the
12 public. The insurance commissioner may require the temporary licensee to have
13 a suitable sponsor who is a licensed producer or insurer and who assumes
14 responsibility for all acts of the temporary licensee and may impose other similar
15 requirements designed to protect insureds and the public. The insurance
16 commissioner may by order revoke a temporary license if the interest of insureds
17 or the public are endangered. A temporary license may not continue after the
18 owner or the personal representative disposes of the business."

19 **Section 46.** Section 157121 is hereby *added* to Article 7, Chapter 15, Division
20 2 of Title 22 of the Guam Code Annotated to read as follows:

21 **"Section 157121. Credit Insurance Agents.** (a) In this Section:

22 (1) '*Agent*' means a person or corporation licensed to sell credit
23 insurance, mortgage insurance, travel accident and personal accident
24 insurance in accordance with this Article and as specifically provided by this
25 Section.

26 (2) '*Credit insurance*' includes: (i) credit life; (ii) credit accident

1 and health insurance; (iii) credit involuntary unemployment insurance; (iv)
2 mortgage life insurance; (v) travel accident insurance; (vi) personal accident
3 insurance and '*credit property insurance*' which means insurance: (1)
4 providing coverage (i) on personal property used as collateral for securing
5 a personal or consumer loan, or (ii) on personal property under an
6 installment sales agreement or through a consumer credit transaction and (2)
7 purchased in connection or in relation to such personal or consumer loan,
8 installment sale or consumer credit transaction; but (3) shall *not* include any
9 insurance which provides theft, typhoon, collision, earthquake, fire, liability,
10 property damage or comprehensive insurance coverage on any automobile,
11 home, business, motorized aircraft, motorcycle, truck, truck-tractor, traction
12 engine or any other self-propelled vehicle which is designed primarily for
13 operation in the air or on highways, roadways, waterways or the sea, and its
14 operating equipment, or which is necessitated by reason of the liability
15 imposed by law for damages arising out of the ownership, operation,
16 maintenance, or use of any the above vehicles and crafts; provided, however,
17 such excluded insurance does *not* include single interest coverage on any of
18 the above vehicles and crafts that insures the interest of the creditor in the
19 same as collateral for a loan.

20 (b) On appointment by the insurance company, an agent may act as the
21 agent of any company authorized to engage in the business of insurance under this
22 Code in the sale of any type of credit insurance that the company is authorized to
23 write. The authority conferred under this Section is in addition to the authority
24 conferred under this Article and specifically permits the sale of both individual and
25 group credit insurance.

26 (c) The Department shall issue a credit insurance agent license to a person

1 or corporation that applies for that license on receipt of a complete application in
2 the form prescribed by the Department for the appointment of the agent by an
3 insurance company authorized to engage in the business of insurance on Guam.

4 (d) A credit insurance agent is *not* required to comply with any
5 examination or continuing education requirement imposed under this Article to
6 obtain or renew a license issued under this Section.

7 (e) The Department shall stamp the face of a license issued under this
8 Section with the words ‘CREDIT INSURANCE ONLY.’”

9 **Section 47.** Section 157122 is hereby *added* to Article 7, Chapter 15, Division
10 2 of Title 22 of the Guam Code Annotated to read as follows:

11 **“Section 157122. Assessment of Taxes.** Whenever any person
12 shall do or perform within Guam any of the acts mentioned in the preceding Article
13 for or on behalf of any insurance company therein referred to, such company shall
14 be held to be doing business on Guam, and shall be subject to the same taxes as
15 insurance companies that have been legally qualified and admitted to do business
16 on Guam by agents or otherwise are subject, to be assessed and collected as taxes
17 are assessed and collected against such companies.”

18 **Section 48.** Section 157124 is hereby *added* to Article 7, Chapter 15, Division
19 2 of Title 22 of the Guam Code Annotated to read as follows:

20 **“Section 157124. Notification to Insurance Commissioner of**
21 **Termination. (a) Termination for Cause.** An insurer or authorized
22 representative of the insurer that terminates the appointment, employment, contract
23 or other insurance business relationship with a producer may notify the insurance
24 commissioner. If the reason for termination is one of the reasons set forth in
25 Section 157119 or the insurer has knowledge the producer was found by a court,
26 government body, or self-regulatory organization authorized by law to have

1 engaged in any of the activities in Section 157119.

2 (b) **Termination Without Cause.** An insurer or authorized
3 representative of the insurer that terminates the appointment, employment, or
4 contract with a producer for any reason not set forth in Section 157119, may notify
5 the insurance commissioner.

6 (c) **Ongoing Notification Requirement.** The insurer or the
7 authorized representative of the insurer shall promptly notify the insurance
8 commissioner if, upon further review or investigation, the insurer discovers
9 additional information that would have been reportable to the insurance
10 commissioner in accordance with Subsection A had the insurer then known of its
11 existence.

12 (d) **Copy of Notification to be Provided to Producer.**

13 (1) Within fifteen (15) days after making the notification required
14 by Subsections (a), (b) and (c), the insurer shall mail a copy of the
15 notification to the producer at his or her last known address. If the producer
16 is terminated for cause for any of the reasons listed in Section 157119, the
17 insurer shall provide a copy of the notification to the producer at his or her
18 last known address by certified mail, return receipt requested, postage
19 prepaid or by overnight delivery using a nationally recognized carrier.

20 (2) Within thirty (30) days after the producer has received the
21 original or additional notification, the producer may file written comments
22 concerning the substance of the notification with the insurance
23 commissioner. The producer shall, by the same means, simultaneously send
24 a copy of the comments to the reporting insurer, and the comments shall
25 become a part of the insurance commissioner's file and accompany every
26 copy of a report distributed or disclosed for any reason about the producer

1 as permitted under Subsection F.

2 (e) **Immunities.** (1) In the absence of actual malice, an insurer,
3 the authorized representative of the insurer, a producer, the insurance
4 commissioner, or an organization of which the insurance commissioner is a
5 member and that compiles the information and makes it available to other
6 insurance commissioners or regulatory or law enforcement agencies shall not
7 be subject to civil liability, and a civil cause of action of any nature shall not
8 arise against these entities or their respective agents or employees, as a result
9 of any statement or information required by or provided pursuant to this
10 section or any information relating to any statement that may be requested
11 in writing by the insurance commissioner, from an insurer or producer; or a
12 statement by a terminating insurer or producer to an insurer or producer
13 limited solely and exclusively to whether a termination for cause under
14 Subsection A was reported to the insurance commissioner, provided that the
15 propriety of any termination for cause under Subsection (a) is certified in
16 writing by an officer or authorized representative of the insurer or producer
17 terminating the relationship.

18 (2) In any action brought against a person that may have immunity
19 under Paragraph (1) for making any statement required by this section or
20 providing any information relating to any statement that may be requested
21 by the insurance commissioner, the party bringing the action shall plead
22 specifically in any allegation that Paragraph (1) does not apply because the
23 person making the statement or providing the information did so with actual
24 malice.

25 (3) Paragraph (1) or (2) shall not abrogate or modify any existing
26 statutory or common law privileges or immunities.

1 **(f) Confidentiality.** (1) Any documents, materials or other
2 information in the control or possession of the department of insurance that
3 is furnished by an insurer, producer or an employee or agent thereof acting
4 on behalf of the insurer or producer, or obtained by the insurance
5 commissioner in an investigation pursuant to this section shall be
6 confidential by law and privileged, shall not be subject to the provisions of
7 the freedom of information and or sunshine statutes of Guam, shall not be
8 subject to subpoena, and shall not be subject to discovery or admissible in
9 evidence in any private civil action. However, the insurance commissioner
10 is authorized to use the documents, materials or other information in the
11 furtherance of any regulatory or legal action brought as a part of the
12 insurance commissioner's duties.

13 (2) Neither the insurance commissioner nor any person who
14 received documents, materials or other information while acting under the
15 authority of the insurance commissioner shall be permitted or required to
16 testify in any private civil action concerning any confidential documents,
17 materials, or information subject to Paragraph (1).

18 (3) In order to assist in the performance of the insurance
19 commissioner's duties under this Act, the insurance commissioner:

20 (A) May share documents, materials or other information,
21 including the confidential and privileged documents, materials or
22 information subject to Paragraph (1), with other state, federal, and
23 international regulatory agencies, with the National Association of
24 Insurance Commissioners, its affiliates or subsidiaries, and with state,
25 federal, and international law enforcement authorities, provided that
26 the recipient agrees to maintain the confidentiality and privileged

1 status of the document, material or other information;

2 (B) May receive documents, materials or information,
3 including otherwise confidential and privileged documents, materials
4 or information, from the National Association of Insurance
5 Commissioners, its affiliates or subsidiaries and from regulatory and
6 law enforcement officials of other foreign or domestic jurisdictions,
7 and shall maintain as confidential or privileged any document,
8 material or information received with notice or the understanding that
9 it is confidential or privileged under the laws of the jurisdiction that
10 is the source of the document, material or information; and

11 (4) No waiver of any applicable privilege or claim of
12 confidentiality in the documents, materials, or information shall occur as a
13 result of disclosure to the commissioner under this section or as a result of
14 sharing as authorized in Paragraph (3).

15 (5) Nothing in this Act shall prohibit the insurance commissioner
16 from releasing final, adjudicated actions including for cause terminations that
17 are open to public inspection pursuant to the provisions of the freedom of
18 information and or sunshine statutes to a database or other clearinghouse
19 service maintained by the National Association of Insurance Commissioners,
20 its affiliates or subsidiaries of the National Association of Insurance
21 Commissioners.

22 **Section 49.** Section 157125 is hereby *added* to Article 7, Chapter 15, Division
23 2 of Title 22 of the Guam Code Annotated to read as follows:

24 **“Section 157125. Reciprocity.** (a) The insurance commissioner
25 shall waive any requirements for a nonresident license applicant with a valid license
26 from his or her home state, except the requirements imposed by Section 15705 of

1 this Act, if the applicant's home state awards nonresident licenses to residents of
2 this state on the same basis.

3 (b) A nonresident producer's satisfaction of his or her home state's
4 continuing education requirements for licensed insurance producers shall constitute
5 satisfaction of this state's continuing education requirements if the non-resident
6 producer's home state recognizes the satisfaction of its continuing education
7 requirements imposed upon producers from this state on the same basis.

8 **Section 50.** Section 157126 is hereby *added* to Article 7, Chapter 15, Division
9 2 of Title 22 of the Guam Code Annotated to read as follows:

10 **"Section 157126. Reporting of Actions.** (a) A producer shall report
11 to the insurance commissioner any administrative action taken against the producer
12 in another jurisdiction or by another governmental agency within thirty (30) days
13 of the final disposition of the matter. This report shall include a copy of the order,
14 consent to order or other relevant legal documents.

15 (b) Within thirty (30) days of the initial pretrial hearing date, a producer
16 shall report to the insurance commissioner any criminal prosecution of the producer
17 taken in any jurisdiction. The report shall include a copy of the initial complaint
18 filed, the order resulting from the hearing and any other relevant legal documents."

19 **Section 51.** Section 157127 is hereby *added* to Article 7, Chapter 15, Division
20 2 of Title 22 of the Guam Code Annotated to read as follows:

21 **"Section 157127. Regulations.** The insurance commissioner may, in
22 accordance with the Administrative Adjudication Law, promulgate reasonable
23 regulations as are necessary or proper to carry out the purposes of this Act."

24 **Section 52.** Section 18403 of Article 4, Chapter 18, Division 2 of Title 22 of the
25 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

26 **"Section 18403. Acknowledgment of Receipt of Premium.** An

1 acknowledgment by an insurer of receipt of the premium is conclusive evidence of
2 its payment, so far as to make the policy binding; *provided*, that this Section shall
3 *not* be in conflict with any other Section in this Title; and provided that it shall
4 *not* be in conflict with any stipulation in the policy that the premium shall *not* be
5 binding until the premium is actually paid in full.”

6 **Section 53.** Section 18602 of Article 6, Chapter 18, Division 2 of Title 22 of the
7 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

8 **“Section 18602. Willful Act or Negligence of Insured.** An insurer
9 shall *not* be liable for a loss caused by the willful act or negligence of the insured
10 or the insured’s agents or others.”

11 **Section 54.** Section 18603 of Article 6, Chapter 18, Division 2 of Title 22 of the
12 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

13 **“Section 18603. Notice of Loss.** Failure to give notice of loss covered
14 by marine or fire insurance within any period provided for by the policy or
15 otherwise, shall *not* exonerate the insurer *if* the insured shall have given notice
16 within twenty (20) days after the event within which to give notice of loss.”

17 **Section 55.** Section 18604 of Article 6, Chapter 18, Division 2 of Title 22 of the
18 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

19 **“Section 18604. Preliminary Proof of Loss.** When preliminary proof
20 of loss is required by a policy, the insured shall provide such proof as would be
21 necessary for the insurer to assess the loss.”

22 **Section 56.** Article 9 is hereby *added* to Chapter 15 of Title 22 of the Guam
23 Code Annotated to read as follows:

24 **“ARTICLE 9.**

25 **INSURANCE FRAUD.**

26 **Section 15901. Insurance Fraud Investigation Unit**

1 **Established; Powers and Duties of the**
2 **Department of Revenue and Taxation.**

3 **Section 15902. Types of Insurance Fraud; not limited.**

4 **Section 15903. Access to Evidence, Documentation, and related**
5 **Materials.**

6 **Section 15904. Confidentiality and Immunity from Service of**
7 **Process.**

8 **Section 15905. Duties of Insurers, their Employees and**
9 **Insurance Professionals.**

10 **Section 15906. Receipt of Information; Immunity from**
11 **Liability.**

12 **Section 15907. Disclosure Limitations and Conditions.**

13 **Section 15908. Reward Fund.**

14 **Section 15909. Reports.**

15 **Section 15910. Severability.**

16
17 **Section 15901. Insurance Fraud Investigation Unit Established;**
18 **Powers and Duties of the Department of Revenue and Taxation.**

19 (a) There may be established within the Department of Revenue and
20 Taxation, Division of Insurance, the Insurance Fraud Investigation Unit. The
21 purpose of this Unit shall be to:

22 (1) initiate independent inquiries and conduct investigations in
23 conjunction with the Guam Police Department, when the Department has
24 reason to believe that fraud against insurers companies may have been, or is
25 currently being committed, and to undertake studies to determine the extent
26 of such insurance fraud;

1 (2) in conjunction with the Guam Police Department respond to
2 notification or complaints alleging fraud against insurers generated by
3 Federal, state and local police, other law enforcement authorities,
4 governmental agencies or units, and any other person; *and*

5 (3) in conjunction with the Guam Police Department review notices
6 and reports of fraud against insurers; select the incidents of suspected fraud
7 that, in its judgment, require further detailed investigations, and conduct the
8 investigations in conjunction with the Guam Police Department.

9 (b) The Commissioner may appoint such agents as the Commissioner may
10 deem necessary to assist the Department in carrying out its powers and duties under
11 this Chapter.

12 **Section 15902. Types of Insurance Fraud; Not Limited.** Fraud
13 against insurers includes, but shall *not* be limited to:

14 (a) billing for more expensive services at a higher service fee than
15 was actually provided;

16 (b) falsifying certificates of medical necessity, plans of treatment,
17 and medical records to justify payment;

18 (c) billing for services not furnished;

19 (d) soliciting, offering or receiving a kickback;

20 (e) billing separately for services that should be included in a single
21 service fee;

22 (f) misrepresenting the diagnosis to justify payment; *and*

23 (g) violations of §12224.

24 **Section 15903. Access to Evidence, Documentation and Related**
25 **Materials.** *If* the department seeks evidence, documentation and related materials
26 located within Guam pertinent to an investigation or examination and in the

1 possession or control of an insurer or an insurance professional, the Department
2 may request access to the material. The person so requested may either make the
3 material available to the Department, or may make available for inspection or
4 examination by a designated representative of the Department.

5 **Section 15904. Confidentiality and Immunity from Service of**
6 **Process.** (a) Papers, records, documents, reports, materials or other evidence
7 relative to the subject of an insurance fraud investigation or examination in the
8 possession of the Department shall remain confidential and shall *not* be subject to
9 public inspection.

10 (b) Agents employed by the Department shall *not* be subject to subpoena
11 in civil actions by any court of competent jurisdiction to testify concerning any
12 matter of which they have knowledge pursuant to a pending or continuing insurance
13 fraud investigation or examination being conducted by the Department.

14 **Section 15905. Duties of Insurers, Their Employees and Insurance**
15 **Professionals.** (a) *If* any insurer, any employee thereof, or any insurance
16 professional has knowledge of, or has reason to believe that a violation of
17 Subsection (c) of this Section, or §12224 is being, or has been committed, that
18 person shall furnish and disclose any information in that person's possession
19 concerning the fraudulent act to the Department, *subject to* any legal privilege
20 protecting such information.

21 (b) All applications for insurance and all claim forms provided and
22 required by an insurer or required by law as a condition of payment of a claim shall
23 contain a statement, permanently affixed to, or included as a part of the application
24 of claim form, that clearly states in substances the following:

25 'It is a crime to knowingly provide false, incomplete or misleading
26 information to an insurance company for the purpose of defrauding the

1 company. Penalties include imprisonment, fines and denial of insurance
2 benefits.'

3 The lack of a statement required in this Subsection does*not* constitute a
4 defense in any criminal prosecution or civil case. The statement required by this
5 Subsection shall *not* be required on applications and forms relating to reinsurance.

6 (c) *If* any person, by any false pretense or token, from any person, with
7 intent to defraud, money or other property which may be the subject of larceny,
8 shall be deemed guilty of larceny thereof, or if that person obtain, by any false
9 pretense or token, with such intent, the signature of any person to a writing, the
10 false making whereof would be forgery, that person shall be guilty of a felony.

11 **Section 15906. Receipt of Information; Immunity From Liability.**

12 (a) Any insurer providing information to an authorized representative of
13 the Department pursuant to Sections 15902 and 15903 shall have the right to
14 request relevant information and receive, within thirty (30) days, the information
15 requested.

16 (b) No cause of action in the nature of defamation, invasion of privacy or
17 negligence shall arise against any person furnishing information concerning any
18 suspected, anticipated or completed criminal violation when the information is
19 provided to or received from the Department, the National Association of Insurance
20 Commissioners, another insurer, any Federal or local governmental entity
21 established for the purposes of detecting and preventing insurance fraud, or the
22 National Insurance Crime Bureau.

23 (c) No insurer, its officers or employees, insurance professional or any
24 other person shall be *subject to* such cause of action for cooperating with, or
25 furnishing evidence or information regarding any suspected criminal violation to
26 the Department.

1 (d) This Section shall *not* provide immunity for those disclosing or
2 furnishing false information with malice or willful intent to injure any person.

3 (e) This Section does *not* abrogate or modify in any way common law or
4 statutory privilege or immunity heretofore enjoyed by any person or entity, nor does
5 it authorize the Department to make public insurance company records which are
6 proprietary in nature.

7 **Section 15907. Disclosure Limitations and Conditions.**

8 (a) An insurance institution, agent or insurance support organization shall
9 *not* disclose any personal or privileged information about an individual collected
10 or received in connection with an insurance transaction, *unless* the disclosure is:

11 (1) With the written authorization of the individual; *provided:*

12 *If* the authorization is submitted by a person *other than* an
13 insurance institution, agent or insurance support organization, the
14 authorization is:

15 (i) dated,

16 (ii) signed by the individual, *and*

17 (iii) obtained two (2) years or less *prior to* the date a
18 disclosure is sought pursuant to this subdivision;

19 (2) To a person other than an insurance institution, agent or
20 insurance-support organization, provided the disclosure is reasonably
21 necessary:

22 (a) to enable that person to perform a business, professional
23 or insurance function for the disclosing insurance institution, agent or
24 insurance-support organization and that person agrees *not* to disclose
25 the information further without the individual's written authorization,
26 *unless* the further disclosure:

1 (i) would otherwise be permitted by this Section if
2 made by an insurance institution, agent or insurance-support
3 organization; *or*

4 (ii) is reasonably necessary for that person to perform
5 its function for the disclosing insurance institution, agent, or
6 insurance-support organization; *or*

7 (b) to enable that person to provide information to the
8 disclosing insurance institution, agent or insurance-support
9 organization for the purpose of:

10 (i) determining an individual's eligibility for an
11 insurance benefit or payment; *or*

12 (ii) detecting or preventing criminal activity, fraud,
13 material misrepresentation or material nondisclosure in
14 connection with an insurance transaction;

15 (3) to an insurance institution, agent or insurance-support
16 organization, or self insurer, *provided*, the information disclosed is limited
17 to that which is reasonably necessary:

18 (a) to detect or prevent criminal activity, fraud, material
19 misrepresentation or material nondisclosure in connection with
20 insurance transactions; *or*

21 (b) for either the disclosing or receiving insurance
22 institution, agent or insurance-support organization to perform its
23 function in connection with an insurance transaction involving the
24 individual;

25 (4) to medical-care institution or medical professional for the
26 purpose of: (i) verifying insurance coverage or benefits; (ii) informing an

1 individual of a medical problem of which the individual may^{not} be aware;
2 *or* (iii) conducting an operations or services audit,*provided*, only that
3 information is disclosed as is reasonably necessary to accomplish the
4 foregoing purposes;

5 (5) to an insurance regulatory authority;

6 (6) to a law enforcement or other government authority:

7 (a) to protect the interests of the insurance institution, agent
8 or insurance support organization in preventing or prosecuting the
9 perpetration of fraud upon it;

10 (b) *if* the insurance institution, agent, or insurance-support
11 organization reasonably believes that illegal activities have been
12 conducted by the individual; *or*

13 (c) upon written request of any law enforcement agency, for
14 all insured or claimant information in the possession of an insurance
15 institution, agent or insurance support organization which relates an
16 ongoing criminal investigation. (Such insurance institution, agent or
17 insurance-support organization shall release such information,
18 including, but *not* limited to, policy information, premium payment
19 records, record of prior claims by the insured or by another claimant,
20 and information collected in connection with an insurance company's
21 investigation of an application of claim. Any information released to
22 a law enforcement agency pursuant to such request shall be treated as
23 confidential criminal investigation information and shall^{not} be
24 disclosed further, *except* as provided by law. Notwithstanding any
25 provision in this Chapter, no insurance institution, agent or insurance-
26 support organization shall notify any insured or claimant that

1 information has been requested or supplied pursuant to this Section
2 *prior to* notification from the requesting law enforcement agency that
3 its criminal investigation is completed. Within ninety (90) days
4 following the completion of any such criminal investigation, the law
5 enforcement agency making such a request for information shall
6 notify any insurance institution, agent, or insurance support
7 organization from whom information was requested that the criminal
8 investigation has been completed.);

9 (7) otherwise permitted or required by law;

10 (8) in response to a facially valid administrative or judicial order,
11 including a search warrant or subpoena;

12 (9) made for the purpose of conduction actuarial or research
13 studies, provided:

14 (a) no individual may be identified in any actuarial report;

15 *and*

16 (b) the actuarial or research organization agrees *not* to
17 disclose the information, *unless* the disclosure would otherwise be
18 permitted by this Section *if* made by an insurance institution, agent or
19 insurance support organization;

20 (10) to a party or a representative of a party to a proposed or
21 consummated sale, transfer, merger, or consolidation of all or part of the
22 business of the insurance institution, agent, or insurance-support
23 organization;

24 (11) to a person whose *only* use of such information will be in
25 connection with the marketing of a product or service *provided*, the person
26 receiving such information agrees *not* to use it, *except* in connection with the

1 marketing of a product or service;

2 (12) to an affiliate whose *only* use of the information will be in
3 connection with an audit of the insurance institution or agent or the
4 marketing of the insurance product or service, *provided* the affiliate agrees
5 *not* to disclose the information for any other purpose or to unaffiliated
6 persons;

7 (13) by a consumer reporting agency, *provided*, the disclosure is to
8 a person *other than* an insurance institution or agent;

9 (14) to a group policyholder for the purpose of reporting claims
10 experience or conducting an audit of the insurance institution's or agent's
11 operations or services, *provided*, the information disclosed is reasonably
12 necessary for the group policyholder to conduct the review or audit;

13 (15) to a professional peer review organization for the purpose of
14 reviewing the service or conduct of a medical care institution or medical
15 professional;

16 (16) to a governmental authority for the purpose of determining the
17 individual's eligibility for health benefits for which the governmental
18 authority may be liable;

19 (17) to a certificate holder or policyholder for the purpose of
20 providing information regarding the status of an insurance transaction; *or*

21 (18) to a lienholder, assignee, lessor or other person shown on the
22 records of an insurance institution or agent as having a legal or beneficial
23 interest in a policy of insurance; *provided*, that no medical record
24 information is disclosed, *unless* the disclosure would be permitted by this
25 Section; *provided further*, that the information disclosed is limited to that
26 which is reasonably necessary to permit such person to protect his interest

1 in the policy.

2 (b) No person proposing to issue, reissue or renew any policy, contract,
3 or plan of accident and sickness insurance, but excluding disability income
4 insurance, issued by any: (i) insurer providing hospital, medical and surgical or
5 major medical coverage on an expense incurred basis; (ii) corporation providing a
6 health service plan; or (iii) health maintenance organization providing health care
7 plan for health care services shall disclose any genetic information about an
8 individual or a member of such individual's family collected or received in
9 connection with any insurance transaction, *unless* the disclosure is made with the
10 written authorization of the individual. For the purposes of this Subsection,
11 '*genetic information*' means information about genes, gene products or inherited
12 characteristics that may derive from an individual or a family member.

13 **Section 15908. Reward Fund.** The Department, through the Guam
14 Police Department, in cooperation with authorized insurers and insurance
15 professionals, may establish and operate a fund to offer monetary rewards for
16 information sufficient to procure conviction in a court of appropriate jurisdiction
17 of a person(s) responsible for insurance fraud. No law-enforcement officer,
18 employee of the Commission, employee of an insurance company or any insurance
19 professional shall be eligible to receive such reward.

20 **Section 15909. Reports.** The Department shall submit an annual
21 report to *I Maga'lahaen Guåhan* and the Speaker of *I Liheslaturan Guåhanno* later
22 than February 15 of each year on the progress made in deterring insurance fraud
23 against insurance companies. Such report shall detail: (i) all expenditures and
24 receipts of the Insurance Fraud Investigation Unit; (ii) the uses to which these funds
25 were put, including payment of salaries and expenses, purchases of equipment and
26 supplies, and other expenditures by type; *and* (iii) the results achieved as a

1 consequence of such expenditures, including the number of notifications or
2 inquiries received, the number inquiries and investigations undertaken, the number
3 of inquiries to which an investigation was *not* initiated, the number of arrests, the
4 number of files presented to prosecutors, the number of prosecutions, the number
5 of convictions and the total dollar amount of restitution resulting from the operation
6 of the Insurance Fraud Investigation Unit.

7 **Section 15910. Severability.** *If any provision of this Act or its*
8 *application to any person or circumstance is found to be invalid or contrary to law,*
9 *such invalidity shall not affect other provisions or applications of this Law which*
10 *can be given effect without the invalid provisions or application, and to this end the*
11 *provisions of this Law are severable.”*

12 **Section 57.** Article 10 is hereby *added* to Chapter 15, Division 2 of Title 22 of
13 the Guam Code Annotated to read as follows:

14 **“ARTICLE 10.**

15 **AUTHORIZED INVESTMENTS AND LOANS**
16 **FOR DOMESTIC INSURANCE COMPANIES.**

17 **Section 151001. Scope.**

18 **Section 151002. Purpose.**

19 **Section 151003. Insurers’ Investment Plans.**

20 **Section 151004. Authorized Investments and Transactions.**

21 **Section 151005. Bonds, Evidence of Indebtedness or**
22 **Obligations.**

23 **Section 151006. Policy Loans.**

24 **Section 151007. Time and Savings Deposits.**

25 **Section 151008. Equity Interests.**

26 **Section 151009. Preferred Stock.**

1	Section 151010.	Collateral Loans.
2	Section 151011.	Real Estate Loans.
3	Section 151012.	Real Estate.
4	Section 151013.	Foreign Countries and United States
5		Territories.
6	Section 151014.	Investments Not otherwise Specified.
7	Section 151015.	Other Authorized Investments.
8	Section 151016.	Securities Lending, Repurchase, Reverse
9		Repurchase and Dollar Roll Transactions.
10	Section 151017.	Money Market Funds.
11	Section 151018.	Risk Control Transactions.
12	Section 151019.	Trading Requirements.
13	Section 151020.	Distributions, Reinsurance, and Merger.
14	Section 151021.	Qualifications of Investments.
15	Section 151022.	Investment of Companies Reinsured.
16	Section 151023.	Severability.

17

18 **Section 151001. Scope.** This Article shall apply to *all* domestic
19 companies as defined under this Code. This Article shall *not* limit or restrict the
20 investments in or transactions with or within subsidiaries and affiliates.

21 **Section 151002. Purpose.** The purpose of this Article is to protect and
22 further the interest of the insured, insurers, creditors and the public by providing
23 standards for the development and administration of plans for the investment of the
24 assets of insurers.

25 **Section 151003. Insurers' Investment Plans. (a) Investment**
26 **Plan.** The board of directors of each insurer or corresponding authority

1 designated by the charter, bylaws or plan of operations of an insurer which has no
2 board of directors may:

3 (1) adopt a written investment plan consistent with the provisions
4 of this Article which:

5 (i) specifies the diversification of the insurer's investments,
6 so as to reduce the risk of large losses, by:

7 (A) broad categories, such as bonds and real estate
8 loans,

9 (B) quality, *and*

10 (C) maturity,

11 (ii) seeks a reasonable relationship of assets and liabilities,
12 *and*

13 (2) *at least* annually, review the adequacy of such investment plan
14 and the implementation thereof.

15 (b) **Maintenance of Investment Plan.** The insurer shall maintain the
16 investment plan in its principal office and may upon written request of the
17 Commissioner and consent by the insurer provide the same to the Commissioner
18 or that person's designee, and such plans shall be maintained as a privileged and
19 confidential document by the Commissioner of Insurance, or that person's
20 designee, and it shall *not* be subject to public disclosure.

21 (c) **Penalty.** Failure of the Commissioner, or that person's designee,
22 to keep confidential any of the information received in connection with Subsection
23 (a) of this Section or any other information requested by the Commissioner and
24 considered confidential by the insurer, shall be a third-degree felony.

25 **Section 151004. Authorized Investments and Transactions.**

26 *Subject to* the limitations and restrictions herein contained and, *unless*

1 otherwise specified, based upon the insurer's admitted assets as reported in the most
2 recently filed statutory financial statement, the investments and transactions
3 described in the following Subsections are authorized for the insurers subject
4 hereto; *provided*, that investments *not* herein described shall *not* be restricted in any
5 manner.

6 **Section 151005. Bonds, Evidence of Indebtedness or Obligations.**

7 (a) **United States Government Bonds.** Bonds, evidence of
8 indebtedness or obligations of the United States of America, or bonds, evidences
9 of indebtedness or obligations guaranteed as to principal and interest by the full
10 faith and credit of the United States of America, and bonds, evidence of
11 indebtedness, or obligations of agencies and instrumentalities of the government of
12 the United States of America.

13 (b) **Other Governmental Bonds.** Bonds, evidences of indebtedness or
14 obligations of governmental units in the United States, Canada, or any province of
15 or city of Canada, and of the instrumentalities of such governmental units.

16 (c) **Obligations of Business Entities.** Obligations, including bonds
17 or evidences of indebtedness, or participation's in those bonds or evidences of
18 indebtedness, or asset-backed securities, that are issued, assumed, guaranteed or
19 insured by any business entity, including a sole proprietorship, a corporation, an
20 association, a general or limited partnership, a limited liability company, a joint-
21 stock company, a joint venture, a trust or any other form of business organization,
22 whether for-profit or not-for-profit, that is organized under the laws of the United
23 States, another state, Canada, or any state, district, province or territory of Canada,
24 *subject to* all conditions set forth below:

25 (1) an insurer may acquire obligations or counter-party exposure
26 amounts, in any one (1) business entity rated by the securities Valuation

1 Office of the National Association of Insurance Commissioners.

2 (2) notwithstanding the foregoing, an insurer may acquire an
3 obligation of a business entity in which the insurer already holds one (1) or
4 more obligations *if* the obligations is acquired in order to protect an
5 investment previously made in that business entity, but obligations so
6 acquired may *not* exceed the insurer's admitted assets; *and*

7 (3) this Subsection does *not* prohibit an insurer from acquiring an
8 obligation as a result of a restructuring of an already held obligation or
9 preferred stock that is rated 3, 4, 5 or 6 by the Securities Valuation Office.

10 (d) **International Market.** Bonds issued, assumed, or guaranteed by the
11 Interamerican Development Bank, the International Bank for Reconstruction and
12 Development (the World Bank), the Asian Development Bank, the State of Israel,
13 the African Development Bank and the International Finance Corporation.

14 **Section 151006. Policy Loans.** Loans upon the security of the
15 insurer's own policies *not* in excess of the amount of the reserve values thereof.

16 **Section 151007. Time and Savings Deposits.** Any type of form of
17 savings deposits, time deposits, certificates of deposit, NOW accounts, and money
18 market accounts in banks, savings and loans associations, brokerage firms and
19 credit unions, and branches thereof.

20 **Section 151008. Equity Interests.** Equity interests including common
21 stock, equity investment in an investment company, real estate investment trust,
22 limited partnership interests, warrants or other rights to acquire equity interests that
23 are created by the person that owns or would issue the equity to be acquired and
24 equity interests in any business entity.

25 For purposes of this Article, a business entity shall include, but limited to a
26 real estate investment trust, corporation, limited liability company, association,

1 limited partnership, joint venture, mutual fund, trust, joint tenancy or other similar
2 form of business organization, whether organized for profit or not-for-profit.

3 **Section 151009. Preferred Stock.** Preferred stock of business entities;
4 provided: (1) investments in the preferred stock of any one (1) business entity will
5 *not* exceed the insurer's admitted assets and (2) the aggregate of all investments
6 made under this Subsection may *not* exceed the insurer's admitted assets.

7 **Section 151010. Collateral Loans.** Collateral loans secured by a
8 first lien upon or a valid and perfected first security interest in an asset; *provided*,
9 that the amount of any such collateral loan will *not* exceed the value of the
10 collateral asset at any time during the duration of the loan.

11 **Section 151011. Real Estate Loans.** Notes, evidences of
12 indebtedness or participation therein secured by a valid first lien upon real property
13 or leasehold estate therein located in the United States of America, provided:

14 (1) the amount of any obligation secured by a first lien upon real
15 property or leasehold estate therein shall *not* exceed the value of such real
16 property or leasehold estate therein, but the amount of such obligation:

17 (i) shall *not* exceed one hundred percent (100%) of the
18 value of such real property or leasehold estate therein *if* the insurer or
19 one (1) or more wholly owned subsidiaries of the insurer owns equity
20 interest in such real property or leasehold estate therein;

21 (ii) may be ninety-five percent (95%) of the value of such
22 real property or leasehold estate therein *if* it contains only a dwelling
23 designed exclusively for occupancy by *not more than* four (4)
24 families for residential purposes, and the portion of the unpaid balance
25 of such obligation which is in excess of an amount equal to such value
26 is guaranteed or insured by a mortgage insurance company qualified

1 to do business on Guam; *or*

2 (iii) may be greater than the value of such real property or
3 leasehold estate therein to the extent the obligation is insured or
4 guaranteed by the United States of America, the Federal Housing
5 Administration pursuant to the National Housing Act of 1934, as
6 amended;

7 (2) the term of an obligation secured by a first lien upon a leasehold
8 estate in real property shall *not* exceed a period equal to four-fifths of the un-
9 expired term of such leasehold estate; *provided*, the un-expired term of the
10 leasehold estate must extend *at least* ten (10) years beyond the term of the
11 obligation, and each obligation shall be payable in an installment or
12 installments of sufficient amount or amounts so that at any time after the
13 expiration of two-thirds ($2/3$) of the original loan term, the principal balance
14 will be *no greater than* the principal balance would have been if the loan
15 had been amortized over the original loan term in equal monthly, quarterly,
16 semiannual or annual payments of principal and interest, it being required
17 that under any method of repayment such obligation will fully amortize
18 during a period of time *not exceeding* four-fifths ($4/5$) of the then un-
19 expired term of the security leasehold estate;

20 (3) *if* any part of the value of buildings is to be included in the
21 value of such real property or leasehold estate therein to secure the
22 obligations provided for in this Subsection, such buildings shall be covered
23 by adequate property insurance, including, but *not* limited to, fire and
24 extended coverage insurance issued by a company authorized to transact
25 business on Guam or by a company recognized as acceptable for such
26 purpose by the insurance regulatory official of the jurisdiction in which such

1 real estate is located, and the amount of insurance granted in the policy or
2 policies shall be *not less than* the unpaid balance of the obligation or the
3 insurable value of such buildings, whichever is the lesser; the loss clause
4 shall be payable to the insurer as its interest may appear;

5 (4) to the extent any note, evidence of indebtedness, or
6 participation therein under this Subsection represents an equity interest in the
7 underlying real property, the value of such equity interest shall be
8 determined at the time of execution of such note, evidence of indebtedness,
9 or participation therein and that portion shall be designated as an investment
10 *subject to* the provisions of Subsection (1) and (2) of this Section;

11 (5) the amount of any one (1) such obligation may *not* exceed the
12 insurer's statutory admitted assets; *and*

13 (6) a first lien on real property may be purchased after its
14 origination *if* the first lien is insured by a mortgagee's title policy issued to
15 the original mortgagee that contains a provision that inures the policy to the
16 use and benefit of the owners of the evidence of debt indicated in the policy
17 and to any subsequent owners of that evidence of debt, and *if* the insurer
18 maintains evidence of assignments or other transfers of the first lien on real
19 property to the insurer. An assignment or other transfer to the insurer, duly
20 recorded in the jurisdiction in which the real property is located, shall be
21 presumed to create legal ownership of the first lien by the insurer.

22 **Section 151012. Real Estate.** Real property fee simple or leasehold estates
23 located with the United States of America, as follows:

24 (1) home and branch office real property or participation therein,
25 which must be material enhanced in value by the construction of durable,
26 permanent-type buildings and other improvements costing an amount *at least*

1 equal to the cost of such real property, exclusive of buildings and
2 improvement at the time of acquisition, or by the construction of such
3 buildings and improvements which must be commenced within two (2) years
4 of the date of the acquisition of such real property; provided that:

5 (i) the aggregate investment in such home and branch
6 offices shall *not* exceed the insurer's admitted assets;

7 (2) other investment property or participation therein, which must
8 be materially enhanced in value by the construction of durable, permanent-
9 type buildings and other improvements costing an amount *at least* equal to
10 the cost of such real property, exclusive of buildings and improvements at
11 the time of acquisition, or by the construction of such buildings and
12 improvements which must be commenced within two (2) years of the date
13 of acquisition of such real property; *provided*, that such investment in any
14 one (1) piece of property or interest therein, including the improvements,
15 fixtures and equipment pertaining thereto may *not* exceed the insurer's
16 assets; provided, however, nothing in this Article shall allow ownership of,
17 development of, or equity interest in any dwelling property, or undeveloped
18 real estate for the purpose of subdivision, single or multiunit family
19 subdivision for or development of residential, single or multiunit family
20 dwellings, *except* acquisitions as provided in Subdivision (3) below, and
21 such ownership, development or equity interests shall be specifically
22 prohibited;

23 (3) other real property acquired:

24 (i) in good faith by way of security for loans previously
25 contracted or money due;

26 (ii) in satisfaction of debts previously contracted for in the

1 course of its dealings; *or*

2 (iii) by purchase at sales under judgment or decrees of court,
3 or mortgage or other lien held by such insurer; *and*

4 (4) regardless of the mode of acquisition specified herein, upon
5 sale of any such real property, the fee title to the mineral estate, or any
6 portion thereof, may be retained by the insurance company indefinitely.

7 **Section 151013. Foreign Countries and United States Territories.** In
8 addition to the investments in Canada authorized in other subsections of this
9 Article, investments in other foreign countries or in commonwealths, territories, or
10 possessions of the United States is authorized.

11 **Section 151014. Investments *Not* Otherwise Specified.**

12 Investments which are *not* otherwise authorized by this Article, and which
13 are not specifically prohibited by statute, including that portion of any investment
14 which may exceed any limits specified herein.

15 **Section 151015. Other Authorized Investments.** Those other
16 investments are as follows:

17 (a) any investment held by an insurer on the effective date of this
18 Act, which was made or acquired or which the insurer was holding or
19 possessing immediately *prior to* such effective date, but which does *not*
20 conform to the requirements of the investments authorized herein, may
21 continue to be held by and considered as an authorized asset or transaction
22 of the insurer; *provided*, the investment or transaction is disposed of at its
23 maturity date, *if any*, or within the time prescribed by the law under which
24 it was acquired, *if any*; and provided further, in no event shall the provisions
25 of this subdivision alter the legal or accounting status of such asset; *and*

26 (b) any other investment which may be authorized by other

1 provisions of this Code or by other laws for the insurers which are *subject*
2 *to* this Article.

3 **Section 151016. Securities Lending, Repurchase, Reverse Repurchase**
4 **and Dollar Roll Transactions.** (a) For purposes of this Section, the following
5 definitions shall apply:

6 (1) '*Repurchase transaction*' means a transaction in which an
7 insurer sells securities to a business entity and is obligated to repurchase the
8 sold securities or equivalent securities from the business entity at a specified
9 price, either within a specified period of time or upon demand.

10 (2) '*Reverse repurchase transaction*' means a transaction in which
11 an insurer sells securities to a business entity and is obligated to repurchase
12 the sold securities or equivalent securities from the business entity at a
13 specified price, either within a specified period of time or upon demand.

14 (3) '*Securities lending transaction*' means a transaction in which
15 securities are loaned by an insurer to a business entity that is obligated to
16 return the loaned securities or equivalent securities to the insurer, either
17 within a specified period of time or upon demand.

18 (4) '*Dollar roll transaction*' means two (2) simultaneous
19 transactions with settlement dates no more than ninety-six (96) days apart so
20 that in one transaction an insurer sells to a business entity, and in the other
21 transaction the insurer is obligated to purchase from the same business entity,
22 substantially similar securities of the following types:

23 (i) mortgage-backed securities issued, assumed or
24 guaranteed by the Government National Mortgage Association, the
25 Federal National Mortgage Association or the Federal Home Loan
26 Mortgage Corporation or their respective successors; *and*

1 (ii) other mortgage-backed securities referred to in Section
2 106 of Title I of the Secondary Mortgage Market Enhancement Act
3 of 1984, as amended.

4 (b) An insurer may engage in securities lending, repurchase, reverse
5 repurchase and dollar roll transactions as set forth herein. The insurer shall enter
6 into a written agreement for all transactions, *except* dollar roll transactions, that
7 shall require each transaction to terminate *no more than* one (1) year from its
8 inception.

9 (c) Cash received in a transaction under this Section shall be invested in
10 accordance with this Article and in a manner that recognizes the liquidity needs of
11 the transaction or used by the insurer for its general corporate purposes. For so
12 long as the transaction remains outstanding, the insurer, its agent or custodian shall
13 maintain, as to acceptable collateral received in a transaction under this Subsection,
14 either physically or through the book entry systems of the Federal Reserve,
15 Depository Trust Company, Participants Trust Company or other securities
16 depositories.

17 (d) The limitations imposed herein shall *not* apply to the business entity
18 counter-party exposure created by transactions under this Section. An insurer shall
19 *not* enter into a transaction under this Subsection *if*, as a result of and after giving
20 effect to the transaction:

21 (1) the aggregate amount of securities then loaned, sold to, or
22 purchased from, any one (1) business entity counter-party under this
23 Subsection would exceed its admitted assets. In calculating the amount sold
24 to or purchased from a business entity counter-party under repurchase or
25 reverse repurchase transactions, effect may be given to netting provisions
26 under a master written agreement; *or*

1 (2) the aggregate amount of all securities then loaned, sold to or
2 purchased from all business entities under this Subsection would exceed its
3 admitted assets.

4 (e) The amount of collateral required for securities lending, repurchase
5 and reverse repurchase transactions is the amount required pursuant to the
6 provisions of the Purposes and Procedures of the Securities Valuation Office or
7 such successor publication.

8 **Section 151017. Money Market Funds.** Money market mutual funds
9 as defined under the Investment Company Act of 1940 (15 U.S.C. §80a 1 *et seq.*)
10 The percentage authorizations and limitations set forth in any or all of the
11 provisions of this Article shall apply only at the time of the original acquisition of
12 an investment or at the time a transaction is entered into and shall *not* be applicable
13 to the insurer or such investment or transaction thereafter. In addition, any
14 investment, once qualified under any Subsection of this Section, shall remain
15 qualified notwithstanding any refinancing, restructuring or modification of such
16 investment.

17 **Section 151018. Risk Control Transactions.** An insurer may use
18 derivative instruments to engage in hedging transactions, replication transactions
19 and income generation transactions as set forth herein.

20 (a) For the purpose of this Article, the following definitions shall
21 apply:

22 (1) *'Acceptable collateral'* means cash, cash equivalents,
23 letters of credit and direct obligations, or securities that are fully
24 guaranteed as to principal and interest by, the government of the
25 United States.

26 (2) *'Business entity'* includes a sole proprietorship,

1 corporation, limited liability company, association, partnership, joint
2 stock company, joint venture, mutual fund, bank, trust, joint tenancy
3 or other similar form of business organization, whether organized for-
4 profit or not-for-profit.

5 (3) '*Cap*' means an agreement obligating the seller to make
6 payments to the buyer with each payment based on the amount by
7 which a reference price or level or the performance or value of one (1)
8 or more underlying interests exceeds a predetermined number,
9 sometimes called the strike rate or strike price.

10 (4) '*Cash equivalents*' means short-term, highly rated,
11 highly liquid and readily marketable investments or securities, which
12 includes money market funds. For purposes of this definition:

13 (i) '*Short-term*' means investments with a remaining
14 term to maturity of one year or less; *and*

15 (ii) '*highly rated*' means an investment rated 'P1' by
16 Moody's Investors Service, Inc., or 'A1' by the Standard and
17 Poor's Division of the McGraw Hill Companies, Inc., or its
18 equivalent rating by a nationally recognized statistical rating
19 organization recognized by the Securities Valuation Office or
20 with a NAIC rating 1.

21 (5) '*Collar*' means an agreement to receive payments as the
22 buyer of an option, cap or floor and to make payments as the seller of
23 a different option, cap or floor.

24 (6) '*Counter-party exposure amount*' means:

25 (i) for an over-the-counter derivative instrument *not*
26 entered into pursuant to a written master agreement which

1 provides for netting of payments owed by the respective
2 parties:

3 (A) the market value of the over-the-counter
4 derivative instrument *if* the liquidation of the derivative
5 instrument would result in a final cash payment to the
6 insurer; *or*

7 (B) zero if the liquidation of the derivative
8 instrument would *not* result in a final cash payment to
9 the insurer;

10 (ii) for over-the-counter derivative instruments
11 entered into pursuant to a written master agreement which
12 provides for netting of payments owed by the respective
13 parties, and the domiciliary jurisdiction of the counter-party is
14 either within the United States; *or if* not within the United
15 States, is within a foreign jurisdiction listed in the Purpose and
16 Procedures Manual of the Securities Valuation Office as
17 eligible for netting, the greater of zero or the net sum payable
18 to the insurer in connection with all derivative instruments
19 *subject to* the written master agreement upon their liquidation
20 in the event of default by the counter-party pursuant to the
21 master agreement;

22 (iii) for purposes of this definition, market value or the
23 net sum payable, as the case may be, shall be determined at the
24 end of the most recent of the insurer's fiscal year and shall be
25 reduced by the market value of acceptable collateral held by the
26 insurer or a custodian on the insurer's behalf.

1 (7) *'Derivative instrument'* means any agreement, option or
2 instrument, or any series or combination thereof:

3 (i) to make or take delivery of, or assume or
4 relinquish, a specified amount of one (1) or more underlying
5 interests, or to make a cash settlement in lieu thereof; *or*

6 (ii) that have a price, performance, value or cash flow
7 based primarily upon the actual or expected price, yield, level,
8 performance, value or cash flow of one or more underlying
9 interests.

10 Derivative instruments include options, warrants *not*
11 otherwise permitted to be held by the insurer under this Article,
12 caps floors, collars, swaps, swaptions, forwards, futures and
13 any other agreements, options or instruments substantially
14 similar thereto or any series or combination thereof.

15 Derivative instruments do *not* include collateral
16 mortgage obligations, other asset-backed securities, principal-
17 protected structure securities, floating rate securities, or
18 instruments which an insurer is otherwise permitted to invest in
19 or receive under this Article other than under this Subsection,
20 and any debt obligations of the insurer.

21 (8) *'Derivative transaction'* means a transaction involving
22 the use of one or more derivative instruments. Dollar roll
23 transactions, repurchase transactions, reverse repurchase transactions
24 and securities lending transactions shall *not* be included as derivative
25 transactions for purposes of this Subsection.

26 (9) *'Floor'* means an agreement obligating the seller to make

1 payments to the buyer in which each payment is based on the amount:
2 by which a predetermined number, sometimes called the floor rate or
3 price, exceeds a reference price, level, performance or value of one or
4 more underlying interests.

5 (10) '*Forward*' means an agreement, other than a future, to
6 make or take delivery in the future of one or more underlying interest,
7 or effect a cash settlement, based on the actual or expected price,
8 level, performance or value of such underlying interests, but shall *not*
9 mean or include spot transactions effected within customary
10 settlement periods, when-issued purchases or other similar cash
11 market transactions.

12 (11) '*Future*' means an agreement, traded on a futures
13 exchange, to make or take delivery of, or effect a cash settlement
14 based on the actual or expected price, level, performance or value of,
15 one or more underlying interests.

16 (12) '*Futures exchange*' means a foreign or domestic
17 exchange, contract market or board of trade on which trading in
18 futures is conducted and, in the United States, which has been
19 authorized for such trading by the Commodities Futures Trading
20 Commission, or any successor thereof.

21 (13) '*Hedging transaction*' means a derivative transaction
22 which is entered into and maintained to manage:

23 (i) the risk of a change in the value, yield, price, cash
24 flow or quantity of assets or liabilities, or a portfolio of assets
25 and/or liabilities, which the insurer has acquired or incurred or
26 anticipates acquiring or incurring; *or*

1 (ii) the currency exchange rate risk related to assets or
2 liabilities, or a portfolio of assets and/or liabilities, which an
3 insurer has acquired or incurred, or anticipates acquiring or
4 incurring.

5 (14) '*Income generation transaction*' means a derivative
6 transaction which is entered into to generate income. A derivative
7 transaction which is entered into as a hedging transaction or a
8 replication transaction shall *not* be considered an income generation
9 transaction.

10 (15) '*Market value*' means the price for the security or
11 derivative instrument obtained from a generally recognized source or
12 the most recent quotation from such a source or, to the extent no
13 generally recognized source exists, the price for the security or
14 derivative instrument as determined pursuant to the terms of the
15 instrument or in good faith by the insurer as can be reasonably
16 demonstrated to the Commissioner upon request, plus accrued but
17 unpaid income thereon to the extent *not* included in the price as of the
18 date.

19 (16) '*Option*' means an agreement giving the buyer the right
20 to buy or receive (a 'call option'), sell or deliver (a 'put option'), on
21 the actual or expected price, spread, level, performance or value of
22 one or more underlying interests.

23 (17) '*Over-the-counter derivative instrument*' means a
24 derivative instrument entered into with a business entity *other than*
25 through a securities exchange, futures exchange or cleared through a
26 qualified clearinghouse.

1 (18) '*Potential exposure*' means:

2 (i) as to a future position, the amount of initial
3 margin required for that position; *or*

4 (ii) as to swaps, collars and forwards, one-half percent
5 (1/2%) times the notional amount times the square root of the
6 remaining years to maturity.

7 (19) '*Qualified Clearinghouse*' means a clearinghouse *subject*
8 *to* the rules of a securities exchange or a future exchange, which
9 provides clearing services, including acting as a counter-party to each
10 of the parties to a transaction, such that the parties no longer have
11 credit risk to each other.

12 (20) '*Replication transaction*' means a derivative transaction
13 or combination of derivative transactions effected either separately or
14 in conjunction with cash market investments included in the insurer's
15 investment portfolio in order to replicate the risks and returns of
16 another authorized transaction, investment or instrument and/or
17 operate as a substitute for cash market transactions. A derivative
18 transaction entered into by the insurer as a hedging transaction shall
19 *not* be considered a replication transaction.

20 (21) '*Securities exchange*' means:

21 (i) an exchange registered as a national securities
22 exchange or a securities market registered under the Securities
23 Exchange Act of 1934 (15 U.S.C. §78 *et seq.*), as amended;

24 (ii) Private Offerings Resales and Trading through
25 Automated Linkages ('PORTAL'); *or*

26 (iii) a designed offshore securities market as defined

1 in Securities Exchange Commission Regulation S, 17 C.F.R.
2 Part 230, as amended.

3 (22) 'Swap' means an agreement to exchange or to net
4 payments at one or more times based on the actual or expected price,
5 yield, level, performance or value of one or more underlying interests.

6 (23) 'Swaption' means an option to purchase or sell a swap at
7 a given price and time or at a series of prices and times. A swaption
8 does *not* mean a swap with an embedded option.

9 (24) 'Underlying interest' means the assets, liabilities or other
10 interests, or a combination thereof, underlying a derivative instrument,
11 such as any one, or more securities, currencies, rates indices,
12 commodities or derivatives instruments.

13 (25) 'Warrant' means an instrument that gives the holder the
14 right to purchase or sell the underlying interest at a given price and
15 time, or at a series of prices and times outlined in the warrant
16 agreement.

17 (b) *Prior to* entering into any derivative transaction, the board of
18 directors of the insurer shall approve a derivative use plan, as part of the
19 investment plan required in §151018(c) of this Article that:

20 (1) describes investment objectives and risk constraints, such
21 as counter-party exposure amounts;

22 (2) defines permissible transactions identifying the risks to
23 be hedged, the assets or liabilities being replicated; *and*

24 (3) requires compliance with internal control procedures.

25 (c) The insurer shall establish written internal control procedures
26 that provide for:

1 (1) all derivative transactions entered into, outstanding or
2 closed out;

3 (2) the results and effectiveness of the derivatives program;

4 (3) the credit risk exposure to each counter-party for over-
5 the-counter derivative transactions based upon the counter-party
6 exposure amount; *and*

7 (4) documentation appropriate for each transaction
8 including:

9 (i) the assets or liabilities to which the transaction
10 relates;

11 (ii) the specific derivative instrument used in the
12 transaction;

13 (iii) for over-the-counter derivative instrument
14 transactions, the name of the counter-party and the counter-
15 party exposure amount; *and*

16 (iv) for exchange-traded derivatives instrument
17 transactions, the name of the exchange and the name of the firm
18 that handled the transaction.

19 (d) An insurer may enter into an income generation transaction,
20 provided:

21 (1) as a result of an after giving effect to the transaction, the
22 aggregate statement value of admitted assets that are then *subject to*
23 call or that generate the cash flows for payments required to be made
24 by the insurer under caps and floors sold by the insurer and then
25 outstanding under this Subsection, plus the statement value of
26 admitted assets underlying derivative instruments, then *subject to* calls

1 sold by the insurer and outstanding under this Subsection, plus the
2 purchase price of assets *subject to* puts then outstanding under this
3 Subsection does *not* exceed its assets; *and*

4 (2) the transaction is one of the following types, is covered
5 in the manner specified below and meets the other requirements
6 specified below:

7 (i) sales of call options on assets; *provided*, that the
8 insurer holds or has a currently exercisable right to acquire the
9 underlying assets during the entire period that the option is
10 outstanding;

11 (ii) sales of put options on assets; *provided*, that the
12 insurer holds sufficient cash, cash equivalents or interests in a
13 short-term investment pool to purchase the underlying assets
14 upon exercise during the entire period that the option is
15 outstanding, and has the ability to hold the underlying assets in
16 its portfolio; *and*

17 (iii) sales of call options on derivative instruments;
18 *provided*, that the insurer holds or has a currently exercisable
19 right to acquire assets generating the cash flow to make any
20 payments for which the insurer is liable pursuant to the
21 underlying derivative instruments during the entire period that
22 the caps and floors are outstanding.

23 (e) An insurer may purchase or sell one or more derivative
24 instruments to offset, in whole or in part, any derivative instrument
25 previously purchased or sold, as the case may be, without regard to the
26 quantitative limitations of this Subsection; *provided*, that such offsetting

1 transaction utilizes the same type of derivative instrument as the derivative
2 instrument being offset.

3 **Section 151019. Trading Requirements.** Each derivative instrument
4 shall be:

5 (a) traded on a securities exchange;

6 (b) entered into with, or guaranteed by, a business entity;

7 (c) issued or written by or entered into with the issuer of the
8 underlying interest on which the derivative instrument is based; or

9 (d) in the case of futures, traded through a broker which is
10 registered as a futures commission merchant under the Commodity Exchange
11 Act, or which has received exemptive relief from such registration under
12 Rule 30.10 promulgated under the Commodity Exchange Act.

13 **Section 151020. Distributions, Reinsurance, and Merger.** No
14 provision of this Article prohibits the acquisition by an insurer of additional
15 obligations, securities, or other assets, nor does this Article apply to securities,
16 obligations or other assets accepted incident to the workout, adjustment,
17 restructuring or similar realization of any kind of investment or transaction when
18 deemed by the insurer's board of directors, or by a committee appointed by the
19 board of directors to be in the best interests of the insurer, if the investment or
20 transaction had previously been authorized, nor does this Article apply to assets
21 acquired pursuant to a lawful agreement of bulk reinsurance, merger or
22 consolidation if such assets constituted legal and authorized investments for the
23 ceding, merged or consolidated company. No obligation, security or other asset
24 acquired as permitted by this Subsection need be qualified under any other
25 Subsection of this Article.

26 **Section 151021. Qualifications of Investments.** The qualifications

1 or disqualifications of an investment under one Subsection of this Section does not
2 prevent its qualification in whole or in part under another Subsection, and an
3 investment authorizing Subsection the insurer elects. An investment or transaction
4 qualified under any Subsection at the time it was acquired or entered into by the
5 insurer shall continue to be qualified under that Subsection. An investment, in
6 whole or in part, may be transferred from time to time, at the election of the insurer,
7 to the authority of any Subsection under which it then qualifies, whether or not it
8 originally qualified thereunder.

9 **Section 151022. Investment of Companies Reinsured.** In any case
10 in which a domestic insurance company shall assume and reinsure the business and
11 take over the assets of another insurance company, either domestic or foreign, all
12 assets or investments of such reinsured company that were authorized as proper
13 assets or investments for the funds of such reinsured company, and which are taken
14 over by such domestic company, shall be considered as valid assets or investments
15 of such reinsuring domestic company under the laws of Guam.

16 **Section 151023. Severability.** If any provision of this Act or its
17 application to any person or circumstance is found to be invalid or contrary to law,
18 such invalidity shall not affect other provisions or applications of this Law which
19 can be given effect without the invalid provisions or applications, and to this end
20 the provisions of this Law are severable.”

21 **Section 58.** Section 18305 of Article 3, Chapter 18, Division 2 of Title 22 of the
22 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

23 **“Section 18305. Liability Policy: Remedies of Injured Person Against**
24 **Insurer.** (a) An injured person, or in the event of that person’s death, the
25 heirs or representatives of the person entitled to sue therefor, in that person’s suit
26 against the insured, shall not join the insurer on a policy of liability insurance as a

1 defendant, except as provided in Subsections (b) and (c) of this Section.

2 (b) An injured person, or that persons heirs or representatives, shall have
3 the right to maintain a direct action against the insurer, within the terms and limits
4 of the policy, only under the following circumstances:

5 (1) if the officer or process server serving any process against the
6 insured shall return that process 'non service,' and the injured person shall
7 determine in good faith that the insured cannot be served within Guam;

8 (2) if before suit has been brought and probate proceedings have
9 not been initiated, the insured has died;

10 (3) if a suit is pending against an insured in that person's own name
11 and the insured dies prior to judgement; or

12 (4) if a nonresident had been involved in an automobile accident
13 within Guam as an operator or owner and dies before suit has been brought.

14 (c) The injured person, or in the event of that person's death, the person
15 entitled to sue therefor, after having obtained judgement against the insured alone,
16 may proceed on that judgement in a separate action against the insurer; provided,
17 however, the payment in whole or in part of liability by either the insured or the
18 insurer shall, to the extent thereof, be a bar to recovery against the other of the
19 amount so paid.

20 (d) In the event that the insured becomes available for service within
21 Guam, subsequent to the commencement of any action against the insurer brought
22 pursuant to this Section, the Court shall dismiss the action as to the insurer on
23 motion of any party to the action and shall, upon service on the insured, substitute
24 the insured for the insurer in the action, and such substitution shall relate back to
25 the date on which the action was commenced against the insurer.

26 (e) This Section shall apply only to such actions filed on or after its

1 effective date and shall not affect any action filed prior thereto.”

2 **Section 59.** Section 15201.1 is hereby *added* to Article 2, Chapter 15, Division
3 2 of Title 22 of the Guam Code Annotated to read as follows:

4 **“Section 15201.1. Statement; Exemption and Authorization.**

5 (a) **Statement.** *I Liheslaturan Guåhan* finds that youth sport
6 organizations were previously insured by National or International Insurance
7 Company at a rate affordable by the local organizations and which no insurance
8 company on Guam could match such rates and in the best interest of our youth.

9 (b) **Exemption and Authorization.** Any registered non-profit youth
10 sport association is hereby authorized to secure off-island Liability and Accident
11 insurance for purposes of their participation in local inter-league plays *and* off-
12 island participation. This authorization shall only be implemented after
13 solicitations of local insurance company is exhausted, and only if the rate of
14 insurance by the local Insurance company is more than twenty-five percent higher
15 than those offered by the national or international insurance company.”

16 **Section 60. Severability.** *If* any provision of this Law or its application to
17 any person or circumstance is found to be invalid or contrary to law, such invalidity shall
18 *not* affect other provisions or applications of this Law which can be given effect without
19 the invalid provisions or application, and to this end the provisions of this Law are
20 severable.”



THE OFFICE OF
Senator
Felix P. Camacho

TWENTY-SIXTH GUAM LEGISLATURE
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page 1

TESTIMONY SIGN-IN SHEET

COMMITTEE ON TOURISM, TRANSPORTATION
AND ECONOMIC DEVELOPMENT

Bill No. 94 Insurance Laws on Guam

NAME : OLIVER SHILLING	ORGANIZATION : PACIFIC INDEMNITY INSURANCE
CONTACT : 477-8801	MAILING ADDRESS : 348 W O'BRIEN DR., ASANA
NAME : RICHARD REBER	ORGANIZATION : INSURANCE ASSOCIATION OF GUAM
CONTACT : 477-8801	MAILING ADDRESS : P.O. BOX 2082 HAGATNA, GUAM 96932
NAME : PHILIP MAWIA	ORGANIZATION : DISE INSURANCE (INTERNATIONAL) LIMITED
CONTACT : 635 2823	MAILING ADDRESS : 674 HARMON LOOP Rd, Suite 215, DEDEDO.
NAME : WAYNE RISEWIT	ORGANIZATION : Aard Insurance Micronesia (Guam) Inc
CONTACT : 649 8016	MAILING ADDRESS : 278 SOUTH MARINE AVE, TAMUNING.
NAME : JENNIFER E. MOORE	ORGANIZATION : Pacific Indemnity
CONTACT : 1.541.386-2073 477-9708	MAILING ADDRESS : 2458 W. SHAWMAN HOOD RIVER, OR 97031
NAME : Jerry Crisostomo	ORGANIZATION : Net Care
CONTACT : 649-5388	MAILING ADDRESS : Tamuning
NAME : Jeff Hansen	ORGANIZATION : Net Care
CONTACT : 472-3610	MAILING ADDRESS : Asana Shopping Center

to



THE OFFICE OF
Senator Felix P. Camacho
TWENTY-SIXTH GUAM LEGISLATURE

Suite 118 • 777 Route 4
Sinajana, Guam 96926

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472-3544 / 45 / 46
Fax 1-671 472-3561

Public Hearing
10 a.m. Tuesday, June 19, 2001

AGENDA

- I. Call to Order
- II. Announcement and Introduction of Members
- III. Confirmation Hearing: Francisco Q. Taitano to the Guam International Airport Authority Board of Directors
- IV. Legislative Measure: BILL NO. 83 Guam Raceway Park
- V. Legislative Measure: BILL NO. 90 Insurance Conflicts
- VI. Legislative Measure: BILL NO. 94 Insurance Laws on Guam
- VII. Remarks
- VIII. Adjournment



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Fax: 1-671-472-3561

June 7, 2001

MEMORANDUM

To: All Members, Committee on Tourism, Transportation and Economic Development

From: The Chairman

Subject: Committee Public Hearing

Hafa Adai! This is to inform you that the Committee on Tourism, Transportation and Economic Development will be conducting a public hearing at 10:00 a.m. on Tuesday June 19th at the Legislature's Public Hearing Room.

The Committee will hear testimony on the following bills:

- Bill 83 by L. F. Kasperbauer, F. P. Camacho, K. S. Moylan, M. C. Charfauros
AN ACT TO AMEND SECTION 4 OF PUBLIC LAW 24-141 AND ITEM (A) OF SECTION 2.05 OF THE RULES AND REGULATIONS OF THE GUAM ECONOMIC DEVELOPMENT AUTHORITY ON THE OPERATION OF THE GUAM RACEWAY PARK AND ON THE ISSUANCE OF TAX CREDITS FOR IT'S DESIGN AND CONSTRUCTION AS APPROVED BY PUBLIC LAW 25-27 RELATIVE TO GRANTING THE GEDA ADMINISTRATOR THE FLEXIBILITY TO APPLY ALLOWABLE TAX CREDITS TO MINIMIZE CONSTRUCTION AND ADMINISTRATIVE COSTS ASSOCIATED WITH THE GUAM RACEWAY PARK.
- Bill 90 by A. R. Unpingco, F.P. Camacho
AN ACT TO ADD §12111 TO ARTICLE 1, CHAPTER 12, DIVISION 2 OF TITLE 22 OF THE GUAM CODE ANNOTATED, RELATIVE TO CONFLICTS OF INTEREST BETWEEN THE INSURER AND INSURED; DUTY OF INSURER TO PROVIDE INDEPENDENT COUNSEL TO INSURED IN CERTAIN CASES; SELECTION AND COMPENSATION OF COUNSEL; WAIVER OF COUNSEL.
- Bill 94 by A. L.G. Santos, F. P. Camacho
AN ACT TO ADD, REPEAL AND REENACT VARIOUS INSURANCE PROVISIONS AND TO ADD ARTICLES 3, 9 AND 10 ALL WITHIN TITLE 22 OF THE GUAM CODE ANNOTATED, RELATIVE TO INSURANCE LAWS ON GUAM.

The Committee also will hear testimony on the confirmation of Francisco Q. Taitano to the Guam International Airport Authority.

Should you have any questions, please feel free to contact my office at the numbers listed above.

Thank you,

A handwritten signature in black ink, appearing to read 'Camacho', with a stylized flourish at the end.

Felix P. Camacho

Cc: All Senators
Clerk of the Legislature
Protocol
Archives
Media

GOVERNMENT MEETINGS

▲ Continued from Page 9

Those who need special accommodations should call Toni Villavicencio, 647-2211.

GHURA BOARD OF COMMISSIONERS: 5 p.m. June 13, GHURA conference room. Those who need special accommodations should call Michael Duenas, 477-9851/4 or TTY/TDD 472-3701.

CONTRACTORS LICENSE BOARD: 10 a.m. June 14, board conference room. Call 646-7262.

CIVIL SERVICE COMMISSION BOARD: 5:30 p.m. June 12, CSC conference room, 490 Chalan Palasyo, Agaña Heights. Old, new, general business; executive session. Call 475-1300/01.

GVB BOARD OF DIRECTORS: 4 p.m. June 14, GVB main conference room, Tumon. Those who need special ac-

commodations should call 646-5278/9.

HOUSING CORPORATION AND RENTAL CORPORATION BOARD OF DIRECTORS: 5 p.m. June 14, Building 6-5000 E. Sunset Blvd., Tiyan. Call 475-4927.

CIVIL SERVICE COMMISSION BOARD: 5:30 p.m. June 14, CSC conference room, 490 Chalan Palasyo, Agaña Heights. Continuation of hearing on merits in adverse action appeal of Anthony C. Santos vs. Department of Labor; suspension - 3 days; new, general business; executive session. Call 475-1300/01.

NORTHERN GUAM SOIL & WATER CONSERVATION DISTRICT: 7 p.m. June 14, SWCD NRCS field office, Route 8. All interested people welcome. Call 374-3948.

PORT AUTHORITY OF GUAM BOARD OF DIRECTORS: 10 a.m. June 15,

board conference room, Cabras island, Piti. Agenda copies available. Those who need special accommodations should call Simeon Delos Santos, 47-5931, ext. 430, or pager 720-6056.

COMMITTEE ON EDUCATION: 2:30 p.m. June 15, Legislature public hearing room, Hagåtña. Confirmation hearing for Kenneth R. Paulino to serve as member of UOG Board of Regents. Those who need special accommodations should call 475-5437.

INDEPENDENCE TASK FORCE: 4 p.m. June 17, 623 E. Sunset Blvd., Tiyan. call 475-9222.

DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES: Public hearing on Medicaid Assistance Program to amend its state plan to include psychiatric services on outpatient basis for those of any age, screening mammography, and pelvic exam, 10 a.m.

noon, June 18, Room 105, Mangilao Public Health Center. Copies of proposed state plan amendment available at Division of Public Welfare, Bureau of Health Care Financing, second floor, Room 218, Mangilao Public Health Center. Those who need special accommodations/information should call Eleanor Camacho, 735-7255.

COMMITTEE ON TOURISM, TRANSPORTATION AND ECONOMIC DEVELOPMENT: Public hearing 10 a.m. June 19, Legislature public hearing room, Hagåtña. Bills no. 83, 90, 94; also testimony on confirmation of Francisco Taitano to Guam International Airport Authority. Those who need special accommodations should call Bernadette Meno, 472-3544.

MAYORS COUNCIL OF GUAM: Special meeting 10 a.m. each third Wednesday, June 20, council's conference room, RJB complex, Adelup.

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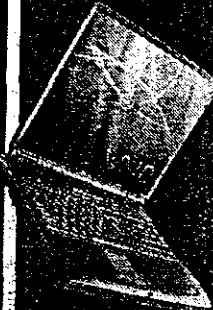
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June 19, 2001

The Honorable Felix P. Camacho
Chairman, Committee on Tourism, Transportation
And Economic Development
Mina'Bente Sais Na Liheslaturan Guahan
Hagatna, Guam 96910

RE: Bill Number 94

Dear Mr. Chairman and members of the Committee:

My name is Jerry Crisostomo and I am the general manager of the group health department of NetCare Life & Health Insurance Company. I would like to thank you for the opportunity to submit testimony in support of Bill 94.

In particular, we support Article 9, Section 15901 as it pertains to the establishment of an Insurance Fraud Investigation Unit within the Department of Revenue and Taxation.

Insurance fraud and specifically health care fraud and abuse are serious problems that have a significant effect on the private and public healthcare sectors. It is a pervasive and serious problem in our health care system, according to a report to Congress by the General Accounting Office (GAO), health care fraud and abuse cost the nation as much as 10% or \$70 Billion dollars of the money it spends on health care annually in 1992. Today, that 10% would approach \$100 Billion. For health insurers, like NetCare, fraudulent activities lead to increased premium costs no matter what type of coverage is involved.

While perpetrators of fraud continue to take more innovative approaches, health care payers have stepped up our efforts in tracking, auditing and identifying potential fraud and abuse before any payment is made. In addition, many states and the federal government have enacted anti-fraud legislation. Since the enactment of the Health Insurance Portability and Accountability Act (HIPAA) in 1996, the federal government and states have toughened laws against healthcare abuse and have established fraud and abuse control programs. Federal agencies are required to join a national program to coordinate federal, state and local law enforcement to combat all forms of public and private health

care fraud. States also continue to pass legislation requiring insurers to establish special units to investigate suspicious claims or contract with an outside company for that service. It is about time that Guam follows this lead and enacts laws to address this serious problem. We have been behind the curve for too long and the time to act is now. Insurance fraud and abuse is prevalent here on Guam and this proposed legislation will provide the needed avenue to investigate and prevent fraudulent activities.

Let me give you some examples of health insurance fraud that I have encountered in my line of business just in the past six months:

- A billing clerk of a dental provider was arbitrarily changing the dates of service of patients to coincide with the insurance effective date of coverage. In other words, a patient incurred services in March but was not effective with us until April. The date of service on the claim was changed to reflect that the service was incurred during the coverage period.
- A pharmacy provider was billing claims on-line and was subsequently audited by our claims audit unit due to the high dollar volume paid and found that there were no original prescriptions obtained to back up the on-line billing submission.
- A patient at GMH was ready for discharge by his provider. However, the patient asks the doctor to falsify the medical records to indicate that he still needs to remain in the hospital for a prolonged period of time. The doctor subsequently informed us of this action by the member.

These are just a few examples of fraud and abuse we encounter routinely.

The health care industry continues its evolution in developing new or modified benefit plan designs, with managed care programs now constituting the vast majority of plans through which Guam consumers obtain their health care coverage. This shift to managed care has brought some advantages in combating health care fraud, however, because managed care arrangements retain certain features of the fee for service payment system. The number of cases may be fewer and the type of fraud uncovered different, but fraud nevertheless continues to be a serious problem.

Staying one step ahead of fraud perpetrators requires ongoing reinforcement of, and support for, anti-fraud programs. In doing so, we have implemented and use a variety of techniques to maintain awareness and detect suspected fraudulent claims:

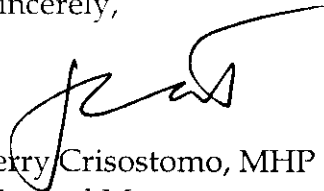
1. Dedicating a fraud hotline for members to call in and report a potential or suspected claim fraud.
2. Establishing a claims audit unit within our claims department to review suspicious claims on a routine basis.
3. Contracted and engaged the services of an outside fraud and cost recovery company to investigate and review fraudulent claims.
4. Enhanced our claims processing system to detect potential fraud by using fraud detection screens for claims submitted electronically.

Insurance fraud is very costly to the industry, and ultimately to the consumer. Fraudulent acts include outright fraud as well as abuses of the health care system. At the same time that methods of committing fraud have become more creative, the methods used to monitor and control questionable practices have become more sophisticated. It appears that the battle is being won in terms of discouraging providers and insureds from committing fraudulent acts on a health claim. However, only vigilant enforcement and cooperation of insurers, governmental agencies and medical providers will ensure the continuing reduction of these illegal practices.

The health care industry is Guam's third largest industry. Therefore, fraud detection, enforcement and prevention will remain increasingly important in the effort to keep health care expenditures within reasonable limits.

I would like to commend the author and sponsors of this legislation for having the foresight and initiative in greatly improving the insurance laws of Guam. We urge the Committee and the full legislature to pass Bill 94 into law.

Sincerely,



Jerry Crisostomo, MHP
General Manager
Group Health Department

GALU

GUAM ASSOCIATION OF LIFE UNDERWRITERS

State Chapter of the National Association of Insurance and Financial Advisors, NAIFA
PO Box BN, Agana, Guam 96932 www.galu-naifa.org

June 19, 2001

Honorable Senator Felix P. Camacho
Chairman, Committee on Tourism, Transportation
And Economic Development
Mina'Bente Sais Na Liheslaturan Guahan
Hagatna, Guam 96910

Re: Bill Number 94

Dear Senator Camacho and members of the Committee:

My name is Bobby Shringi, and I am the President-elect of the Guam Association of Life Underwriters (GALU), a local chapter of the National Association of Insurance and Financial Advisors (NAIFA). We are an association comprised of insurance professionals from many insurance companies on Guam, and as an association we are growing at a rapid pace. I would like to thank you for the opportunity to submit testimony in support of Bill 94.

What is important about this legislation is that it unifies Guam's insurance laws with the laws of the 50 states as well as the territories. We need to bring Guam's insurance codes up to modern standards and this is a great start. It is important for the players of the industry as well as the consumers to come together to establish a win-win code, and at the same time it is understood that through views, practices and beliefs we will never come up with an exact mirror code set nationally. But we have to start from somewhere, and with something, and Bill 94 is that start.

For many years our insurance laws have been stretched in various directions, with influential parties calling the shots. This continuation will eventually lead to the federal government intervening in our industry and ultimately taking control of our insurance regulation. That will be a slap to our people and our government, as well as a step backward. We must conform our laws, and then eventually work it for the flexibility of our people. We must clearly define the roles of a sub-agent, general agent, broker, and it's insurer. Bill 94 is a step in the right direction.

Bill 94 allows agents to renew their license every two years, rather than on an annual basis. This is uniformity from the national level, and will allow for the Insurance Commissioners office to cut down on administrative duties, as paperwork from licensed producers would be done every two years instead of on an annual basis. Look at the bright side, Revenue and Taxation Director Joey Duenas has repeatedly stressed his concern about his department's shortage of staff. Well, I am pretty sure he will find this quite a blessing that paperwork itself would be cut in half. Imagine collecting the same amount of revenue through licensing, yet cutting down on the administrative work.

GALU

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On a serious note, the two year licensing emphasizes Guam's compliance with the National Association of Insurance Commissioners (NAIFA) agent licensing requirements. With an industry growing with both products and producers, it is important to establish the rules to level the playing field. GALU has always been a staunch supporter being pro-consumer, and Bill 94 is a step in that direction.

I would like to commend the authors of the legislation, and emphasize that the committee supports the passage of Bill 94. Thank you very much.

Sincerely,



Bobby A. Shringi
President-elect, GALU



June 19, 2001

The Hon. Mr. Felix Camacho
Senator, Guam Legislature

Re: Bill No. 94 (LS)
Relative to Insurance Laws on Guam

Dear Sir,

Allow me to begin by thanking you for the opportunity to appear before your committee regarding Bill No. 94 (LS). In as much as the Insurance Association of Guam only brought this Bill to the attention of Pacific Indemnity Insurance last week, it is our view that we will need more time to analyze this lengthy and complex piece of legislation before being able to offer constructive comments.

Pacific Indemnity Insurance, as a locally incorporated insurance company, would be significantly effected by this legislation. As a consequence, we very much appreciate and support your suggestions for creating a legislative round table to include members of the insurance industry for the purpose of discussing the provisions of Bill 94 (LS). I, for one, would welcome the opportunity to be included in such a round table forum. In due course, I look forward to contacting you further for the purpose of being included in such a round table.

While it was not a part of my oral testimony, I would like to take this opportunity to advocate separation of Gramm-Leach-Bliley Financial Services Reform Act issues from the other issues contained within Bill 94 (LS). A separation would enable your committee to consider and possibly adopt G-L-B model legislation in a timely fashion. In addition, a separation would also allow the time needed to adequately review and address all the other issues contained within Bill 94 (LS) which are not mandated by G-L-B.

Thank you for giving Pacific Indemnity Insurance this additional opportunity to comment on Bill 94 (LS). I look forward to working with you and your committee on this legislation.

Respectfully,

A handwritten signature in black ink, appearing to read "O.W. Shilling", written in a cursive style.

Oliver W. Shilling
Executive Vice President

CC: Mr. David W. Cassidy, President
Pacific Indemnity Insurance

John E. Moore

Attorney at Law
2458 West Sherman Avenue
Hood River, Oregon 97031
Tel. (541) 386-2073
Fax (541) 386-6825

June 14, 2001

Senator Felix P. Camacho
Chairman, Committee on Tourism,
Transportation and Economic Development
Twenty-Sixth Guam Legislature
Suite 158, 777 Route 4
Sinajania, Guam 96926

RE: Senate Bill 94

Dear Senator Camacho:

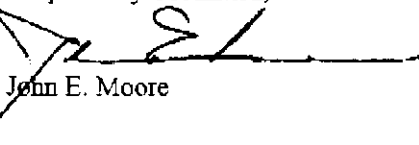
This letter is sent as a follow-up to my telephone conversation of this afternoon with your Chief of Staff, Bernadette Meno. As I explained to Ms. Meno, I represent Pacific Indemnity Insurance Company, which contacted me earlier today concerning the forthcoming hearing on Senate Bill 94, which is presently scheduled for Tuesday, June 19th. My client and the Guam Insurance Association, as well as other Guam insurance companies are concerned that they will not have enough time to adequately review and analyze the proposed legislation in order to present intelligent and constructive comment at the forthcoming hearing. I share their concern in this regard.

Senate Bill 94 is a 90 page document that is both complex and comprehensive. It deals with matters of vital importance to the insurance industry on Guam. We therefore respectfully request that the hearing be rescheduled for a later date so as to permit time for adequate review and comment, or that an additional hearing be scheduled at a later date for that same purpose.

I am certain that you and the other members of the committee desire a full and complete hearing on this important bill. I am equally certain that all concerned would benefit from a thorough review and comment by the insurance industry. I recognize that this letter comes only a few days prior to the scheduled hearing, but the undersigned and other interested parties have only had access to the bill within the past few days.

Your kind consideration of our request will be much appreciated.

Respectfully Submitted,



John E. Moore

cc. Speaker Antonio R. Unpingco

John E. Moore

Attorney at Law
2458 West Sherman Avenue
Hood River, Oregon 97031
Tel. (541) 386-2073
Fax (541) 386-6825

June 24, 2001

Senator Felix P. Camacho
Chairman, Committee on Tourism, Transportation
and Economic Development
Suite 15B Sinajania Shopping Mall Phase II
777 Route 4
Sinajania, Guam 96926


RE: Senate Bill 90 (LS) and Senate Bill 94 (LS)

Dear Senator Camacho:

I just wanted to write to express my appreciation for the courteous and efficient manner in which your committee heard the referenced matters on June 19th. I was particularly impressed with your pragmatic approach to handling the complex issues presented by Senate Bill 94.

It may be that I will have the opportunity to take part in the round table discussions to be scheduled in connection with Senate Bill 94. If so, I will look forward to the opportunity to work with you at that time.

Sincerely,



John E. Moore



EQUITABLE ADJUSTING & SERVICE COMPANY

MEMBER OF  MOYLAN'S INSURANCE COMPANIES

101 AGANA SHOPPING CENTER • AGANA, GUAM 96910
PHONE: (671) 477-8574 / 8490 • FAX: (671) 477-1837

June 18, 2001

The Honorable Senator Felix P. Camacho
Chairman
Committee on Tourism, Transportation a& Economic Development
Twenty-sixth Guam Legislature
Suite 15-B-777 Route 4
Sinajana, Guam 96926

Re : *Bills 90 & 94*

Dear Honorable Senator Camacho:

We commend all the good senators with great ideas who sponsored these Bills 90 & 94 to implement law and order to regulate the insurance industry on Guam.

On behalf of Equitable Adjusting & Service Company, we appreciate this opportunity to present our comments and suggestions to the proposed amendments. We agree with the ideas to regulate promptness on claims handling in the insurance industry.

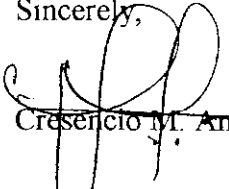
Section 12310: Unfair Claims Settlement Practices, 1) Reasonable standards for the prompt investigations of claims arising under the insurance policies: (promptly or reasonably is quite restrictive.) Would suggest 60 days to include time needed to investigate the claims.

Section 15710: Insurance Adjusters. It is suggested that off-island adjusters should be controlled by the government authorities and be required to register and be licensed locally before they are allowed to do business on island. This is to ensure that they pay their GRT from the income they derived while conducting business on island.

Section 18602: Willful Act or negligence of Insured. This section should be revised. The inclusion of "Negligence" for the insurance carrier to deny coverage is against public interest. Negligence is unforeseen action that is not intended to cause injury or property damages and will not be construed as willful act to bar recovery. Agree with "willful act or intentional act" of the insured.

Thank you for giving us a chance to present our comments.

Sincerely,



Cresencio M. Anas



Moylan's Insurance Und., Inc.
101 Agana Shopping Center
Hagåtña, Guam 96910
Phone: (671)472-3610-4
Fax: (671)472-3615
E-mail: @moylan32.net

June 19, 2001

The Honorable Felix P. Camacho
Chairman, Committee on Tourism, Transportation, and
Economic Development
Mina' Bente Sais Na Liheshaturan Guahan
Hagatna, Guam 96910

Dear Mr. Chairman and members of the Committee:

I would like to thank you for the opportunity to submit testimony in support of bill no. 94. My name is James Moylan and I am the general manager of Moylans Insurance Underwriter Inc. (MIU) Life Department. MIU is the Managing General Agent (MGA) of NetCare Life and Health Insurance Company. As the MGA for Guam's first domestic life insurance company MIU is responsible for the administration of home office tasks including, underwriting, payment of claims, and marketing on behalf of the insurer NetCare.

In 1998 NetCare was established through the trust of local investors and with the cooperation of Guam Economic Development Agency (GEDA) awarding of our qualifying certificate (QC). In 2001 we are further developing our product line to better service the people of Guam.

I congratulate authors of Bill number 94 Senator A.L.G. Santos and Senator F.P. Camacho. This bill complies with Federal licensing requirements, clarifies and adds terminology definitions, has provisions for insurance fraud, defines discretionary powers of the Insurance Commissioner, defines duties and responsibilities of an agent, general agent and broker, and overall brings our insurance code up to date with federal guidelines. Therefore, I am in favor of the passage of bill 94.

Sincerely,

James Moylan
General Manager
Life Department



101 Agana Shopping Center
Hagatna, Guam 96910
Tel:(671) 472-3610/1/2/3/4
Fax: (671) 472-3615

18 June, 2001

The Honorable Felix P. Camacho
Chairman, Committee on Tourism, Transportation and
Economic Development
Mina' Bente Sais Na Liheslaturan Guahan
Hagatna, Guam 96910

Dear Mr. Chairman and members of the Committee:

Thank you for the opportunity to submit testimony in support of Bill No. 94. I am Chief Financial Officer of NetCare Life and Health Insurance Company, the first domestic life insurance Company on Guam, representing over 8,000 policyowners on Guam, CNMI and Micronesia.

The legislation presented in Bill 94 will be of great value to those policyowners. Defining policy terms and conditions, assuring that the agents' representing insurance carriers are properly licensed, and that financial information provided by insurers is accurate and complete.

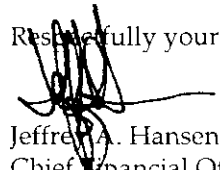
NetCare applauds the legislation for complying with the National Association of Insurance Commissioners (NAIC) recently implemented Statements of Statutory Accounting Principles. The updating of Article 10 to mirror the NAIC Model Investment Act is also a necessary addition to the Insurance Laws of Guam to define and authorize investment items and techniques and comply with standards utilized by all other United States based insurers.

Holding banks accountable to insurance regulations when selling insurance products is very important for their policyholders. Defining revenue reporting for non-insurance companies selling insurance products to ensure proper tax revenue collection by Guam is also an excellent element of the proposed legislation.

I would suggest that Section 15316. Supervision (b) (page 22) be revised to make annual examinations permissive (may) and three (3) year examinations mandatory (shall). We are currently required by the NAIC to file independently audited financial statements with the Commissioner's Office on an annual basis. That, coupled with a mandatory triennial examination would ensure our policyowners' safety and not cause the Commissioner's Office undue financial burden.

Congratulations to Senator A.L.G. Santos and Senator F.P. Camacho on the preparation of Bill No. 94. Their efforts will bring the Insurance Laws on Guam into compliance with NAIC standards and also into the 21st Century.

Respectfully yours,



Jeffrey A. Hansen
Chief Financial Officer



2001 MEMBER COMPANIES:

- American Home Assurance Company
- CGU International Insurance P/C
- Chung Kuo Insurance Company, Ltd.
- Dai-Tokyo Fire & Marine Company, Ltd.
- Dongbu Insurance Company
- Firstnet Insurance Company
- National Union Fire Insurance Company
- New Hampshire Insurance Company
- Nichido Fire & Marine Insurance Co., Ltd.
- Pacific Indemnity Insurance Company
- QBE Insurance (International) Ltd.
- Tokio Marine & Fire Insurance Company
- Zurich Insurance (Guam), Inc.

2001 OFFICERS:

Richard Reber
Chairman
 (671) 477-1663/4

Ray Schnabel
Vice-Chairman
 (671) 477-9808

Monique R. Baysingar
Secretary/Treasurer
 (671) 477-1663/4

April 10, 2001

The Honorable Antonio R. Unpingco
 Speaker
 Twenty-Sixth Guam Legislature
 155 Hesler Street
 Hagåtña, Guam 96910

Post-it® brand fax transmittal memo 7671 # of pages 1

To	SENATOR-CHAIRMAN	From	RICHARD REBER
Co.	FELIX CRISTIANO	Co.	INS. BUREAU OF GUAM
Dept.	26TH GUAM LEGISLATURE	Phone #	477-8801
		Fax #	477-6290
		Fax #	472-3534

Re: Proposed Legislation

Dear Mr. Speaker,

It has come to our attention that legislation has been proposed that would clarify and define the rights and duties between insurance companies, their clients and the attorney for both, when a possible conflict of interests arises between the party(s).

The proposed legislation mirrors Section 2860 of the California Civil Code. This section was enacted to address exactly the same problem that we have here, and successfully eliminated the confusion and abuses, on both sides, in consumer/insurance company/attorney disputes over their respective duties when involved in a lawsuit.

A copy of the proposed legislation is attached for your reference. The association heartily endorses this bill in its present form, and wanted to formally advise you of our support of its passage. Your favorable view and help towards that end would be greatly appreciated.

Thank you for your consideration in this matter.

Sincerely,

Richard R. Reber, II
 Chairman

cc: John E. Moore, Esq.
 Robert Greenwell

DOOLEY LANNEN ROBERTS & FOWLER LLP

Facsimile transmittal sheet

To:	SENATOR FELIX P. CAMACHO	From:	David W. Dooley, Esq.
COMPANY:	26th Guam Legislature	Date:	June 27, 2001
Fax number:	472-3561	Total no. of pages including cover:	2
CC:	MR. RICHARD REBER 477-6290	Sender's reference number:	P100
Re:	BILL NO. 94	Your reference number:	

Important Note: This facsimile is confidential and may be covered by legal professional privilege. It must not be read, copied, disclosed or used by any person other than the above-named addressee. Unauthorized use, disclosure or copying is strictly prohibited and may be unlawful. If you have received this facsimile in error, please contact us immediately. Thank you.

MESSAGE:

See letter dated June 27, 2001.

Suite 201, Orlean Pacific Plaza
865 South Marine Drive
Tamuning, Guam 96911
Telephone No.: (671) 646-1222
Facsimile No.: (671) 646-1223
Writer's Direct Email Address: Dooley@GuamLawOffice.com

DOOLEY LANNEN ROBERTS & FOWLER LLP
ATTORNEYS AT LAW

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Website: GuamLawOffice.com

Of Counsel:
Melinda C. Swavely

Writer's Direct E-Mail:
Dooley@GuamLawOffice.com

June 27, 2001

VIA FACSIMILE TRANSMISSION

472-3561

Senator Felix P. Camacho
26th Guam Legislature
Suite 158, 777 Route 4
Sinajana, Guam 96926

RE: BILL NO. 94

Dear Senator Camacho:


I attended the public hearing on Bill 94 last week. During that meeting, you indicated that you possessed a copy of model privacy legislation. I also understand that the main purpose behind Public Law 94 is to ensure that the privacy legislation has been enacted in Guam.

I am quite interested in the effect of Bill 94 and I would like to provide written testimony regarding that bill. However, in order for me to be able to fully understand the legislation, it will be very helpful for me to be able to review the model legislation upon which Bill 94 was supposedly based. I therefore request that a copy of the bill be sent to me. My facsimile number is on my letterhead. Could you please fax a copy to me? If that is inconvenient, I will be glad to send a member of my staff to your office in order to pick up a copy of the model legislation.

Thank you for your assistance.

Sincerely,

DOOLEY LANNEN ROBERTS & FOWLER LLP


David W. Dooley

cc: Mr. Richard Reber (via facsimile)

DWU/ltr F#P100 DW#PAC009 DIR#Frances letters



GREAT NATIONAL

INSURANCE UNDERWRITERS, INC.

- General Agents -

GRAND PACIFIC
Life Insurance Co., Ltd.

CHUNG KUO INSURANCE
Company, Limited

Great National Insurance Bldg., Chalan San Antonio, Tamuning • P.O. Box GA Agana, Guam 96932 • Tel: 648-5736 / 2250 • Fax: 649-2418 • E-mail: gni@ita.net

August 24, 2001

Senator Felix P. Camacho
26th Guam Legislature
Suite 15B, 777 Route 4
Sinajana, Guam 96926
Fax: 472-3561

RE: **BILL NO. 94** - AN ACT TO ADD, REPEAL AND
REENACT PROVISIONS AND TO ADD ARTICLES 3, 9, AND
10 ALL WITHIN TITLE 22 OF THE Guam CODE ANNOTATED,
RELATIVE TO INSURANCE CODE OF GUAM

Dear Senator Camacho:

We are writing to you to unequivocally express our full support for the above Bill 94. We sincerely believe that the passage of this bill would ensure the continued viability of businesses like ours and would protect the interests of many in the insurance industry.

Our company, together with our 30+ employees and their families, would observe with great interest the outcome of the legislative process pertaining to Bill 94.

Very truly yours,


DOMIE B. BUMAGAT, JR.
President

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MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session

Bill No. 94(LS)

Introduced by:

A. L.G. Santos 
F. P. Camacho 

**AN ACT TO ADD, REPEAL AND REENACT VARIOUS
INSURANCE PROVISIONS AND TO ADD ARTICLES 3,
9 AND 10 ALL WITHIN TITLE 22 OF THE GUAM
CODE ANNOTATED, RELATIVE TO INSURANCE
LAWS ON GUAM.**

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

2 **Section 1.** Section 12104 of Article 1, Chapter 2 of Title 22 of the Guam Code
3 Annotated is hereby *repealed and reenacted* to read as follows:

4 **“Section 12104. Definitions.** The rules and definitions contained
5 in this Section shall be used in interpreting the provisions of this Title.

6 (a) The present tense includes the past and future tenses; and the future,
7 the present.

8 (b) The masculine gender includes the feminine and neuter.

9 (c) The singular number includes the plural, and the plural includes the
10 singular.

11 (d) The word shall is mandatory and the word "may" is permissive, unless
12 otherwise apparent from the context.

1 (e) "**Adjuster**" means any person who acts for or on behalf of an insurer
2 or an insured in determining and making settlement of the amount payable to the
3 insured for any loss or damage under a policy.

4 (f) "**Admitted**" in relation to a person, means entitled to transact
5 insurance business in Guam under the laws of Guam; nonadmitted, in relation to
6 a person, means not entitled to transact insurance business in Guam under the laws
7 of Guam.

8 (g) "**Advisory organization**" means every person, other than an admitted
9 insurer, who prepares policy forms or makes underwriting rules, or who collects
10 and furnishes loss or expense statistics or other statistical information and data and
11 acts in an advisory, as distinguished from a rate making, capacity. No duly
12 authorized attorney-at-law acting in the usual course of his profession shall be
13 deemed an advisory organization.

14 (h) "**Actuary**" means a member in good standing of the American
15 Academy of Actuaries.

16 (i) "**Agent**" means an individual or business entity required to be licensed
17 and appointed under the laws of Guam to sell, solicit, or negotiate insurance or
18 annuity contracts.

19 (j) "**Alien**" means organized under the laws of any government other than
20 Guam or the United States or any political subdivision thereof, whether or not
21 admitted.

22 (k) "**Business entity**" means a corporation, association, partnership,
23 limited liability company, limited liability partnership, employer group,
24 professional employer organization, or other legal entity.

25 (l) "**Broker**" means a person who, for compensation and on behalf of
26 another person, transacts insurance business other than as insurer, general agent,

1 sub-agent or solicitor.

2 (m) **“Certificate”** means the Certificate of Authority required of an insurer
3 to transact insurance business in Guam.

4 (n) **“Charter”** means articles of incorporation, agreement or association,
5 charter granted by legislative act, or other basic constituent document of a
6 corporation or the power of attorney of the attorney-in-fact of a reciprocal insurer.

7 (o) **“Department”** means the Division of Insurance of the Department of
8 Revenue and Taxation, *unless* the context otherwise requires.

9 (p) **“Domestic”** means organized under the laws of Guam, whether or not
10 admitted.

11 (q) **“Domicile”** of an insurer means: (1) as to Canadian insurers, Canada
12 and the province in which the insurer’s head office is located; (2) as to all other

13 (r) **“Foreign”** means not organized under the laws of Guam, but
14 organized under the laws of the United States or any political subdivision thereof,
15 whether or not admitted.

16 (s) **“Foreign insurer”** means an insurer formed under the laws of any
17 jurisdiction, other than Guam, and includes an ‘alien’ insurer, *unless* otherwise
18 distinguished by the context.

19 (t) **“General Agent”** means a person who is properly licensed under the
20 insurance laws of Guam and who is authorized by an insurer to countersign, issue
21 and deliver new policies, to accept service of process on behalf of the insurer, and
22 vested with full authority to consummate a contract of insurance and to transact all
23 other necessary business of the insurer on Guam *not* in conflict with this Title;
24 *provided*, that the general agent shall *not* be liable for the payment or handling of
25 any claims, nor shall the general agent be liable for any administrative functions of
26 the insurer or any other functions of the insurer absent an express written agency

1 contract between the insurer and the general agent stating such agreement by the
2 parties; *provided further*, that there shall be no liability on the part of, and no cause
3 of action of any nature shall arise against, any general agent, absent an express
4 written contract between the insurer and the general agent specifically spelling out
5 in clear and understandable language the terms of their business relationship.”

6 (u) **“General lines agent”** means an agent who transacts any of the
7 following kinds of insurance: (1) property insurance; (2) casualty insurance; (3)
8 surety insurance; (4) marine and transportation insurance; *or* (5) disability
9 insurance, *if* transacted for an insurer also represented by the same agent as the
10 property or casualty insurance.

11 (v) **“Home State”** means the District of Columbia and any state or
12 territory of the United States in which a licensee maintains his or her principal place
13 of residence or principal place of business and is licensed by that state.

14 (w) **“Insurance”** means any of the lines of authority contained in this title
15 in which one undertakes a contract to indemnify another against loss, damage or
16 liability arising from determinable hazards or fortuitous occurrences, or to pay or
17 allow ascertainable risk contingencies.

18 (x) **“Insurance fraud”** means any act that is a violation of any penal law,
19 and that is part of an attempt to knowingly defraud an insurer.”

20 (y) **“Insurance Producer”** - means a person required to be licensed under
21 the laws of Guam to sell, solicit, or negotiate insurance.

22 (z) **“Insurer”** means the person other than a shareholder or investor who
23 undertakes to indemnify another by insurance; insured means the person so
24 indemnified.

25 (aa) **“Issue”** means to write, renew, execute, effect or other-wise enter into
26 a contract of insurance.

1 (bb) *"License"* means a document issued by Guam's insurance
2 commissioner authorizing a person to act as an insurance producer for the lines of
3 authority specified in the document. The license itself does not create any
4 authority, actual, apparent or inherent, in the holder to represent or commit an
5 insurance carrier.

6 (cc) *"Limited Line Credit Insurance"* includes credit life, credit
7 disability, credit property credit unemployment, mortgage life, mortgage guaranty,
8 mortgage disability, automobile dealer gap insurance, and any other form of
9 insurance offered in connection with an extension of credit that is limited to
10 partially or wholly extinguishing that credit obligation that the insurance
11 commissioner determines should be designated a form of limited line credit
12 insurance.

13 (dd) *"Limited Line Credit Insurance Producer"* means a person who
14 sells, solicits or negotiates one or more forms of limited line credit insurance
15 coverage to individuals through a master, corporate, group or individual policy.

16 (ee) *"Limited Lines Insurance"* means those lines of insurance defined
17 in this title or any other line of insurance that the insurance commissioner deems
18 necessary to recognize for the purposes of complying with the nonresident licensing
19 provision under this title.

20 (ff) *"Limited Lines Producer"* means a person authorized by the
21 insurance commissioner to sell, solicit or negotiate limited lines insurance.

22 (gg) *"Mutual insurer"* means an incorporated insurer without capital
23 stock and the governing body of which is elected by its policyholders, *except*
24 certain foreign insurers which the Commissioner finds to be organized on the
25 mutual plan under the laws of their state or province of domicile, but having
26 temporary share capital, or providing for election of the insurer's governing others