



Office of the Governor of Guam

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Office of the People's Speaker
vicente (ben) c. pangelinan

MAY 21 2004

TIME: 4:55 (AM) (PM)
RECEIVED BY: [Signature]

Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

21 MAY 2004

Honorable Vicente C. Pangelinan
Speaker
I Mina Bente Siete na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96932

Dear Mr. Speaker:

Transmitted herewith is Substitute Bill No. 119, "AN ACT TO REPEAL AND REENACT CHAPTER 103 OF TITLE 11 OF THE GUAM CODE ANNOTATED, AND TO REPEAL CHAPTER 12 OF DIVISION 2 OF TITLE 22 OF THE GUAM CODE ANNOTATED, RELATIVE TO CREATING THE OFFICE OF COMMISSIONER OF BANKING AND INSURANCE WITHIN THE DIVISION OF INSURANCE, SECURITIES AND BANKING OF THE DEPARTMENT OF REVENUE AND TAXATION AND TO MAKE VARIOUS AMENDMENTS THROUGHOUT THE BANKING AND INSURANCE CODES, RELATIVE TO THE RESPONSIBILITIES, POWERS AND FUNCTIONS OF THE COMMISSIONER OF BANKING AND INSURANCE," which I signed into law on May 6, 2004 as Public Law 27-88.

The insurance industry has flourished and today comprises a substantial segment of the business community. Given the size and the complexity of the insurance business and its applicable regulations, it seems logical that more focus be given to the interests of the insurance business. With a Commissioner of Banking and Insurance, full-time attention would be devoted to the industry. Furthermore, with the potential growth of captive insurance on Guam, this measure would facilitate the prosperity of this emerging enterprise.

Banks are regulated under federal statutes and rules. With Bill No. 119, full-time attention would be directed to the banking industry most especially the non-regulated finance companies to ensure that these companies are solvent and are safe investments.

However, certain provisions in Bill No. 119 regarding Automated Teller Machines were not included in the version of the Bill that was discussed at the public hearing. This, most notably, includes the requirement to furnish and maintain with the Commissioner a surety bond or a cash deposit in the amount of at least One Million Dollars (\$1,000,000). This requirement does not apply to a financial institution, the deposits of which are insured by an agency or instrumentality of the United States of America. It could happen that a non-bank with One Hundred Million Dollars (\$100,000,000) in capital would be required to spend premiums on a One Million Dollar (\$1,000,000) surety bond to enforce compliance.

Furthermore, there is a provision in Bill No. 119 that provides that the United States Department of Justice (“DOJ”) shall forward requests for criminal offender records to the Federal Bureau of Investigation (“FBI”). Since Guam lacks jurisdiction over DOJ, any requests for criminal offender record should be forwarded to the Attorney General of Guam who in turn shall request them from the FBI.

Finally, the ATM provisions do not specifically require that each ATM transaction be encrypted to safeguard financial information of consumers or that cameras be maintained at all times as a feature of each ATM in order to trace each personal ATM transaction. Security measures are pivotal to protect against breaches occurring with today’s advanced technology.

I intend to submit for legislative confirmation a qualified nominee for Commissioner to address these issues and to work with the Legislature in improving the environment for the banking and insurance industries.

*Sinseru yan Magâhet,*



**FELIX P. CAMACHO**

*I Maga' lâhen Guåhan*  
Governor of Guam

Attachment: copy attached of signed bill

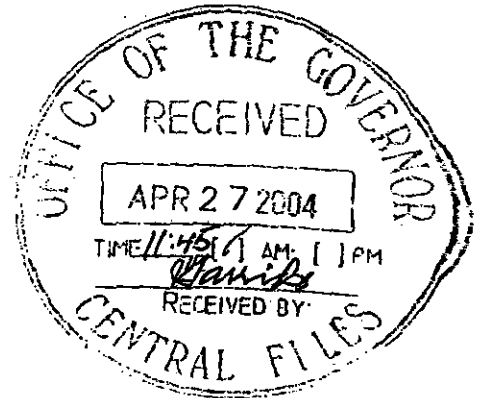
cc: The Honorable Tina Rose Muña-Barnes  
Senator and Legislative Secretary



**MINA' BENTE SIETE NA LIHESLATURAN GUÅHAN**  
TWENTY-SEVENTH GUAM LEGISLATURE  
155 Hessler Place, Hagåtña, Guam 96910

April 27, 2004

The Honorable Felix P. Camacho  
*I Maga'lahen Guåhan*  
*Ufisinan I Maga'lahi*  
*Hagåtña, Guam 96910*



Dear *Maga'lahi* Camacho:

Transmitted herewith are Bill Nos. 178(LS), 193(COR), 256(LS), 261(LS) and 277(COR), and Substitute Bill Nos. 17(LS), 115(COR), 119(COR), 146(LS), 172(LS), 175(LS), 177(LS), 183(COR), 220(COR), 230(LS), 231(LS), 249(COR), 255(LS) and 258(LS) which were passed by *I Mina' Bente Siete Na Liheslaturan Guåhan* on April 23, 2004.

Sincerely,

TINA ROSE MUNA BARNES  
Legislative Secretary

Enclosures (19)

CFI- 0404- 2294

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN  
2004 (SECOND) Regular Session

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

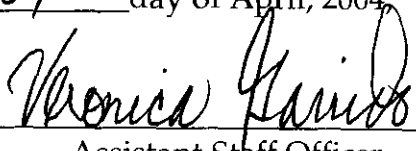
This is to certify that Substitute Bill No. 119 (COR), "AN ACT TO REPEAL AND REENACT CHAPTER 103 OF TITLE 11 OF THE GUAM CODE ANNOTATED, AND TO REPEAL CHAPTER 12 OF DIVISION 2 OF TITLE 22 OF THE GUAM CODE ANNOTATED, RELATIVE TO CREATING THE OFFICE OF COMMISSIONER OF BANKING AND INSURANCE WITHIN THE DIVISION OF INSURANCE, SECURITIES AND BANKING OF THE DEPARTMENT OF REVENUE AND TAXATION AND TO MAKE VARIOUS AMENDMENTS THROUGHOUT THE BANKING AND INSURANCE CODES, RELATIVE TO THE RESPONSIBILITIES, POWERS AND FUNCTIONS OF THE COMMISSIONER OF BANKING AND INSURANCE," was on the 23<sup>rd</sup> day of April, 2004, duly and regularly passed.

Attested:


  
Tina Rose Muña Barnes  
Senator and Legislative Secretary

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vicente (ben) c. pangelinan  
Speaker

This Act was received by *I Maga'lahen Guåhan* this 27 day of April, 2004,  
at 11:45 o'clock A. M.

  
Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:

  
FELIX P. CAMACHO  
*I Maga'lahen Guåhan*

Date: May 6, 2004

Public Law No. 27-88

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN  
2003 (FIRST) Regular Session

**Bill No. 119 (COR)**

As substituted by the Author and by the Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions, and further substituted by the Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions, and amended on the Floor.

Introduced by:

Toni Sanford  
F. B. Aguon, Jr.  
R. J. Respicio  

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J. M.S. Brown  
F. R. Cunliffe  
C. Fernandez  
Mark Forbes  
L. F. Kasperbauer  
R. Klitzkie  
J. A. Lujan  
T. R. Muña Barnes  
v. c. pangelinan  
J. M. Quinata  
Ray Tenorio

**AN ACT TO REPEAL AND REENACT CHAPTER 103 OF TITLE 11 OF THE GUAM CODE ANNOTATED, AND TO REPEAL CHAPTER 12 OF DIVISION 2 OF TITLE 22 OF THE GUAM CODE ANNOTATED, RELATIVE TO CREATING THE OFFICE OF COMMISSIONER OF BANKING AND INSURANCE WITHIN THE DIVISION OF INSURANCE, SECURITIES AND BANKING OF THE DEPARTMENT OF REVENUE AND TAXATION AND TO MAKE VARIOUS AMENDMENTS THROUGHOUT THE BANKING AND INSURANCE CODES, RELATIVE TO THE RESPONSIBILITIES, POWERS AND FUNCTIONS OF THE COMMISSIONER OF BANKING AND INSURANCE.**





1 activities in Guam as provided in this Title, and in other legislation  
2 conferring jurisdiction upon the office.

3 (a) For the purposes of this Chapter and unless  
4 otherwise specified, all references to banks and banking shall  
5 include, where applicable, banks, savings and loans, finance  
6 companies, mortgage brokers, credit unions, pawnshops, check  
7 cashing companies, foreign exchange companies and the like,  
8 including any entities that make loans, accept deposits, sell  
9 notes, corporate paper, debentures or similar instruments,  
10 transmit funds, own or operate automated teller machines  
11 ('ATMs') services, also known as 'customer/bank  
12 communication terminals' ('CBCTs'), 'electronic terminal  
13 devices', 'cash dispensing machines' and 'cash machines', or  
14 otherwise engage in any banking related activity.

15 (b) For the purposes of this Chapter and unless  
16 otherwise specified, insurance organizations subject to  
17 regulation include carriers, general agents, subagents, solicitors,  
18 brokers and claims adjusters.

19 **§103102. Banking and Insurance Commissioner.** There shall  
20 be a Commissioner of Banking and Insurance who shall be appointed  
21 by *I Maga'lahaen Guåhan* (the Governor of Guam), with the advice and  
22 consent of *I Liheslatura* (the Legislature), and who shall serve under  
23 the direction of the Director of Revenue and Taxation.

24 (a) The Commissioner shall be the primary regulator of  
25 Guam banking and insurance institutions, and shall have the



1 authority expressly conferred by or reasonably implied from  
2 the provisions of this Chapter.

3 (b) The salary of the Commissioner shall be equivalent  
4 to the salary of the Director of Revenue and Taxation.

5 (c) The Commissioner shall have the following  
6 minimum qualifications: a total of ten (10) years of experience  
7 in a managerial position in one or both of the following areas:

8 (1) credit risk, loan portfolio quality, payments,  
9 liquidity management, asset funding, investment banking  
10 and securities, bank operations, and/or regulatory  
11 compliance in a bank chartered by the United States or  
12 one (1) of its states or territories or Guam; or

13 (2) administration, sales, law, counseling,  
14 education, actuarial, and/or regulatory compliance in an  
15 insurance company, brokerage or agency registered to do  
16 business in the United States or one (1) of its states or  
17 territories or Guam.

18 (d) The Commissioner shall perform all duties imposed  
19 upon him by the provisions of this Title and other laws  
20 regulating banking and insurance in Guam and shall enforce all  
21 such provisions and laws.

22 (e) The Commissioner's powers extend to any and all  
23 entities, whether or not the entity is a bank, or is partially-  
24 owned or controlled by a bank, to the extent that the entity  
25 engages in an activity that is permissible to banks pursuant to

1 Section 106191 of Title 11 of the Guam Code Annotated. Any  
2 and all banks are subject to the powers of the Commissioner.  
3 The Commissioner shall have the power to require a bank  
4 subject to his powers to:

5 (1) Maintain its accounts in accordance with such  
6 regulations as he may prescribe having regard to the size  
7 of the organization and the nature of its operations.

8 (2) Observe methods and standards which he  
9 may prescribe for determining the value of various types  
10 of assets.

11 (3) Charge off the whole or part of an asset which  
12 at the time of the Commissioner's action could not  
13 lawfully be acquired.

14 (4) Write down an asset to its market value.

15 (5) Record liens and other interests in property.

16 (6) Obtain a financial statement from a  
17 prospective borrower to the extent that the bank can do  
18 so.

19 (7) Obtain insurance against damage to real  
20 estate taken as security.

21 (8) Search, or obtain insurance for, the title to real  
22 estate taken as security.

23 (9) Maintain adequate insurance against such  
24 other risks as the Commissioner may determine to be

1           necessary and appropriate for the protection of depositors  
2           and the public.

3           (f) The Commissioner's powers extend to any and all  
4 insurance entities, and he may examine, or cause to be  
5 examined, the books, papers, and property, and into the affairs  
6 of any insurer, broker, agent, solicitor, or rating bureau, or any  
7 person engaged in organizing, promoting, or forming any  
8 insurer, as the Board considers proper to determine whether  
9 any person has violated any provision of this Title and other  
10 laws relating to the business of insurance, and generally he may  
11 make such examinations, conduct such inquiries, and hold such  
12 hearings as are specifically provided for in this Title or as are  
13 reasonably necessary for the proper discharge of his duties.

14           (g) In connection with any such examination, inquiry,  
15 or hearing, the Commissioner shall have the power to  
16 administer oaths; to summon and compel the attendance of  
17 witnesses; to examine under oath all persons having  
18 information or believed by him to have information concerning  
19 the affairs of any insurer, broker, agent, solicitor, or rating  
20 bureau, or any person engaged in organizing, promoting or  
21 forming an insurer, or any person whom the Commissioner  
22 believes is violating any provision of this Title and other laws  
23 relating to the business of insurance, and to compel such person  
24 to produce any books or papers under his custody or control  
25 relevant thereto.

1 (h) If there should be a vacancy in the office of the  
2 Commissioner, the Director shall serve as Acting  
3 Commissioner.

4 **§103103. Banking and Insurance Board.**

5 (a) There is hereby established in the Office of the  
6 Commissioner of Banking and Insurance, a Banking and  
7 Insurance Board that shall supersede the Banking Board, which  
8 shall consist of the Commissioner and nine (9) members. The  
9 Commissioner shall be Chairman.

10 (b) The nine (9) members shall be appointed by *I*  
11 *Maga'lahi* (the Governor) with the advice and consent of *I*  
12 *Liheslatura* (the Legislature), in conformance with the  
13 requirements of §2105 of Title 4 of the Guam Code Annotated:

14 (1) There shall be three (3) members who are  
15 executive officers of entities chartered as banks and  
16 licensed to conduct business on Guam, at least one (1) of  
17 which shall be a state bank as defined in §100102 of this  
18 Title;

19 (2) There shall be three (3) members who are  
20 executive officers of insurance businesses licensed to  
21 conduct business on Guam;

22 (3) There shall be three (3) members who are not  
23 directors, trustees, officers, employees or stockholders of  
24 any entity chartered as a bank, or any entity engaged in  
25 the insurance business, one (1) of whom must be an

1 attorney admitted to practice law on Guam, and only one  
2 of whom shall be a classified employee of the government  
3 of Guam.

4 (c) Six (6) members shall constitute a quorum. All  
5 decisions made by the Board shall require six (6) affirmative  
6 votes.

7 (d) The term of office of each member shall be six (6)  
8 years *except* the initial appointments to the Banking and  
9 Insurance Board shall be for the following terms as designated  
10 by *I Maga'lahi*:

11 (1) five (5) members for a term of three (3) years; and

12 (2) four (4) members for a term of six (6) years.

13 Thereafter, the term of office of each member shall be six (6)  
14 years.

15 (e) *I Maga'lahi* may, after notice and hearing, remove a  
16 member for cause. Failure to attend two (2) consecutive legally  
17 called Board meetings shall serve as sufficient cause for  
18 removal.

19 (f) The Board shall meet at least once in each calendar  
20 quarter. The Commissioner may call additional meetings of the  
21 Board and shall do so upon the request of two (2) members.  
22 Public notice for all Board meetings shall be given pursuant to  
23 the provisions of the Open Government Law.

24 (g) No member shall participate in a proceeding before  
25 the Board to which any corporation, partnership or

1 unincorporated association of which he or she is or was at any  
2 time in the preceding twelve (12) months a director, officer,  
3 partner, employee, member, or stockholder is a party. A  
4 member may disqualify himself or herself from participating in  
5 a proceeding for any other cause deemed by him or her to be  
6 sufficient.

7 (h) At any meeting at which a quorum is not present,  
8 whether by reason of the inability of a member to participate or  
9 his or her voluntary disqualification, or otherwise, *I Maga'lahi*  
10 may designate the Director, or the head of any other  
11 department of the government of Guam, in that order, as acting  
12 members of the Board for the purpose of constituting a  
13 quorum, but he or she shall not designate more acting members  
14 than shall be necessary to constitute a quorum.

15 (i) The Division shall provide such clerical, technical  
16 and legal assistance as the Board may require.

17 (j) If the employment status of any member of the  
18 Board should be modified during the member's appointed  
19 term, such that the member would no longer meet the  
20 qualifications contained in this §103103, said individual shall no  
21 longer serve on the Board.

22 (k) Any vacancy in Board membership shall be filled in  
23 conformance with the appointment and confirmation  
24 provisions of this §103103 to serve the remainder of the term so  
25 vacated.

1                   **§103104. Powers of Board and Commissioner.**

2                   (a) In addition to other powers conferred by this Title,  
3 the Board shall have the power to:

4                   (1) Regulate its own procedures and practices in  
5 accordance with the Administrative Adjudication Act.

6                   (2) Implement by regulation not inconsistent  
7 with law, any provision of this Title, and to define any  
8 term not defined in this Title as may be reasonably  
9 necessary or appropriate for the administration of this  
10 Title and other laws of Guam relating to banking and  
11 insurance. Such regulations shall be promulgated,  
12 amended, or repealed in accordance with the  
13 Administrative Adjudication Act.

14                  (3) Relative to banking, the Board may:

15                   (i) Restrict the withdrawal of deposits from  
16 all or one or more territorial banks where the Board  
17 finds that extraordinary circumstances make such  
18 restrictions necessary for the proper protection of  
19 depositors in the affected institution;

20                   (ii) Authorize a territorial bank until the close  
21 of the next regular session of *I Liheslatura* to  
22 participate in a public agency hereafter created  
23 under the laws of Guam or of the United States, the  
24 purpose of which is to afford advantages or  
25 safeguards to banks or to depositors and to comply

1 with all requirements and conditions imposed upon  
2 such participants; and to engage in any banking  
3 activity in which banks subject to the jurisdiction of  
4 the Federal government may hereafter be  
5 authorized by Federal legislation to engage;

6 (iii) Order the holder of shares in a territorial  
7 bank to refrain from voting said shares on any  
8 matter if it finds that such order is necessary to  
9 protect the institution against reckless, incompetent  
10 or careless management, safeguard the funds of  
11 depositors, or prevent the willful violation of this  
12 Title or of any lawful rule or order issued  
13 thereunder. In such a case, the shares of such a  
14 holder shall *not* be counted in determining the  
15 existence of a quorum or a percentage of the  
16 outstanding shares necessary to take any corporate  
17 action; or

18 (iv) Order any person to cease violating a  
19 provision of this Title or a lawful regulation issued  
20 thereunder or to cease engaging in any unsound  
21 banking practice.

22 (4) Relative to insurance, the Board may:

23 (i) Enter into contracts for services with a  
24 Certified Financial Examiner in good standing with  
25 the Society of Financial Examiners and with an



1 Actuary in good standing with the American  
2 Academy of Actuaries in the examination of  
3 insurance companies;

4 (ii) Institute such actions or other lawful  
5 proceedings as it may deem necessary for the  
6 enforcement of provisions of this Title and other  
7 laws regulating insurance in Guam or any order or  
8 action made or taken by the Commissioner in  
9 pursuance of law; or

10 (iii) If finding reason to believe that any  
11 person has violated any provisions of this Title and  
12 other laws regulating insurance in Guam, for which  
13 criminal prosecution is provided and in the opinion  
14 of the Commissioner would be in order, such  
15 information relative thereto shall be transmitted to  
16 the Attorney General.

17 (5) Affirm, reverse or stay the enforcement of any  
18 order or ruling of the Commissioner.

19 (6) Establish such rules and regulations in  
20 accordance with the Administrative Adjudication Act as  
21 may be necessary for the operation and management of  
22 banks.

23 (b) The Board may remove a director, trustee, officer or  
24 employee of a territorial bank who becomes ineligible to hold  
25 his or her position or, who after receipt of an order to cease

1 under the preceding Subsection, violates this Title or a lawful  
2 regulation or order issued thereunder or who is dishonest or  
3 who is reckless or grossly incompetent in the conduct of  
4 banking business. It shall be a criminal offense against this  
5 Title for any such person, after receipt of a removal order, to  
6 perform any duty or exercise any power of any territorial bank  
7 for a period of three (3) years. A removal order shall specify  
8 the grounds thereof and a copy of the order shall be sent to the  
9 bank concerned. The Board may recommend removal of a  
10 director, trustee, officer or employee of a national or state bank.

11 (c) Notice and hearing shall be provided in advance of  
12 any action taken by the Board. In cases involving extraordinary  
13 circumstances requiring immediate action, the Board may take  
14 such action but shall promptly afford a subsequent hearing  
15 upon application to rescind the action taken.

16 (d) Members of the Board shall have access to any  
17 record of the Division, with reference to banking and insurance  
18 matters.

19 (e) The Commissioner and the Board shall have the  
20 power to subpoena witnesses, compel their attendance, require  
21 the production of evidence, administer an oath and examine  
22 any person under oath in connection with any subject relating  
23 to a duty imposed upon or a power vested in the Commissioner  
24 or the Board. These powers shall be enforced by the *Superior*  
25 *Court of Guam*. An individual who claims privilege against self-

1           incrimination may nevertheless be compelled to testify, but he  
2           or she shall not be prosecuted or subjected to a penalty or  
3           forfeiture on account of anything concerning which he or she  
4           has testified under such compulsion, except for perjury  
5           committed in his or her testimony. Removal from an office or  
6           employment with a territorial bank or insurance company is  
7           not the imposition of a penalty or forfeiture.

8           (f)    The Board may, on petition of any interested person  
9           and after hearing, issue a declaratory order with respect to the  
10          applicability to any person, property or state of facts of this  
11          Title or a rule issued by the Board. The order shall bind the  
12          Board and all parties to proceeding on the state of facts alleged  
13          unless it is modified or reversed by a court having jurisdiction.  
14          A declaratory order may be reviewed and enforced in the same  
15          manner as other orders of the Board, but the refusal to issue a  
16          declaratory order shall *not* be reviewable.

17          (g)    No person shall be subjected to any civil or criminal  
18          liability for any act or failure to act made in good faith and in  
19          reliance upon an existing order, regulation or definition of the  
20          Board notwithstanding a subsequent decision by a court  
21          invalidating the order, regulation or definition.

22          (h)    The Board shall continuously review the provisions  
23          of this Title and other laws regulating banking and insurance in  
24          Guam and may, from time to time, make recommendations for

1 changes therein to *I Maga'lahi* and *I Liheslatura* in the  
2 Commissioner's Annual Report.

3 **§103105. Order of the Commissioner.**

4 (a) Any finding, decision, or order of the  
5 Commissioner shall be effective only when in writing and  
6 signed by the Commissioner. Orders shall be filed in the  
7 Division of Insurance, Securities and Banking of the  
8 Department of Revenue and Taxation.

9 (b) Every such order shall state:

10 (1) Its effective date;

11 (2) Its intent or purpose;

12 (3) The grounds on which it is based; and

13 (4) The provisions of this Title and other laws  
14 regulating banking or insurance in Guam pursuant to  
15 which action is taken or proposed to be taken.

16 (c) Except as may be provided in the provisions of this  
17 Title and other laws regulating banking or insurance in Guam  
18 respecting particular procedures, an order or notice may be  
19 given by delivery to the person to be ordered or notified or by  
20 mailing it by certified or registered mail, return receipt  
21 requested, postage prepaid, addressed to the person at the  
22 residence or principal place of business of the person as last of  
23 record in the Department. Notice so mailed shall be deemed to  
24 have been given when deposited in a letter depository of a  
25 United States post office.

1           **§103106. Hearing.** Within ten (10) days after the serving of  
2 notice of any order by the Commissioner, any person adversely and  
3 directly affected thereby may request a hearing on the subject of the  
4 order before the Commissioner. A final order shall be made within  
5 ten (10) days after the close of such hearing.

6           **§103107. Enforcement of Orders.** If any person fails to comply  
7 with an order that has become final, the Commissioner may apply for  
8 the enforcement of the order to the *Superior Court of Guam*. If the  
9 Court determines that the order was made and served in accordance  
10 with the law and that such person failed to comply therewith, the  
11 court shall enforce obedience to the order by writ of injunction or  
12 otherwise to enjoin upon such person compliance with the order.

13           **§103108. Court Review.** Any person aggrieved and directly  
14 affected by an order of the Board may appeal to the *Superior Court of*  
15 *Guam*, within thirty (30) days after issuance of the order. The filing of  
16 a petition for review shall not stay enforcement of an order, but the  
17 Court may order a stay upon such terms as it deems proper.

18           **§103109. Other Employees.** All officers and employees of the  
19 Division of Insurance, Securities and Banking, other than the  
20 Commissioner, shall be in the classified service.

21           The Commissioner may delegate to any officer or employee of  
22 the Division any of his or her powers and may designate any officer  
23 or employee of the Division to perform any of his or her duties.

24           **§103110. Banking or Insurance Interests of Officers and**  
25 **Employees.**

1 (a) No employee of the Division shall be an officer,  
2 director, trustee, attorney, owner, shareholder, partner, broker,  
3 agent, solicitor, employee or representative of any bank or  
4 insurance company, or, except as hereinafter provided, receive,  
5 directly or indirectly, any payment or gratuity from any such  
6 organization, or be indebted to any bank or insurance  
7 company, or engaged in the negotiation of loans or contract of  
8 insurance for others with any such bank or insurance company.

9 (b) This provision shall *not* prohibit being a depositor  
10 or insurance policy holder on the same terms as are available to  
11 the public generally, or being indebted to a bank on the same  
12 terms as are available to the public generally, including, *but not*  
13 *limited to*, a mortgage loan upon the mortgagor's own home,  
14 and installment debt of a personal nature.

15 **§103111. Bond.**

16 (a) The Commissioner shall be bonded with a good and  
17 sufficient surety, as the Board shall determine and shall fix,  
18 conditioned that he or she shall faithfully account for and  
19 dispose of any funds and securities received into his or her  
20 custody or control, in accordance with applicable law.

21 (b) All officers and employees of the Division of  
22 Insurance, Securities and Banking handling money or securities  
23 in the course of their duties, shall be bonded with a good and  
24 sufficient surety, in such amount as the Board shall determine  
25 and shall fix.

1           **§103112. Limitation of Personal Liability.** No member of the  
2 Board or officer or employee of the Division shall be liable in any  
3 civil action for damages for any act done or omitted in good faith in  
4 performing the functions of his or her office.

5           **§103113. Fees to Defray Expenses of Division.**

6           (a) The Commissioner shall charge an examination fee  
7 based on cost per hour per examiner, plus travel, per diem and  
8 other related expenses for all institutions examined by him/her  
9 or his/her staff.

10          (b) The Board may implement by regulation not  
11 inconsistent with law additional fees as may be reasonably  
12 necessary or appropriate for the administration of this Title and  
13 other laws of Guam relating to banking and insurance. Such  
14 regulations shall be promulgated, amended, or repealed in  
15 accordance with the Administrative Adjudication Act.

16          (c) Such fees shall be paid directly to the Banking and  
17 Insurance Enforcement Fund.

18           **§103114. Commissioner's Annual Report.**

19          (a) The Commissioner shall report to *I Maga'lahi* and *I*  
20 *Liheslatura* annually, within sixty (60) days after the end of each  
21 fiscal year. His/her report shall include:

22                   (1) The text of all rules of the Division of general  
23 application adopted or altered since his/her last previous  
24 report.

25                   (2) Recommendations for legislation.

1 (3) A statement of the status and remaining assets  
2 and liabilities, as of the date of the most recent report of  
3 condition, summary of all changes occurring since  
4 his/her last previous report by reason of opening new  
5 territorial banks, mergers and conversions, and increases  
6 and decreases in capital of all banking organizations  
7 under the purview of the Commissioner.

8 (4) A statement of the status, assets and liabilities,  
9 report of condition, and increases and decreases in capital  
10 of all other entities herein referenced as banks and not  
11 covered by Item (3) in this Subsection, based on criteria  
12 determined by the Commissioner.

13 (5) A tabulated statement and synopsis of the  
14 reports which have been filed in his/her office showing  
15 the conditions of every admitted insurer, the general  
16 condition of the insurance business and interests in  
17 Guam, and other matters covering insurance, for the  
18 preceding year.

19 **§103115. Examinations and Reports.**

20 (a) The Commissioner need not examine or cause to be  
21 examined any financial institution that is regulated by the  
22 FDIC, the Board of Governors of the Federal Reserve Bank, or  
23 the Office of the Comptroller of Currency, so long as the  
24 financial institution has received a satisfactory rating or its  
25 equivalent by the regulatory agency.



1           (b) The Commissioner may accept, adopt, or use in lieu  
2 of an examination prescribed herein, all or any part of the  
3 results of an examination conducted by a Federal regulatory  
4 agency of a Guam financial institution for the same period or  
5 subject matter that would be covered by an examination  
6 required or permitted under this Article.

7           (c) In the event that the Commissioner has not received  
8 a satisfactory or equivalent rating by a territorial bank's  
9 primary safety and soundness regulator for the most recent  
10 examination period, the Commissioner shall examine the  
11 condition of each territorial bank at least once in each calendar  
12 year and shall require each such organization to submit a report  
13 of its condition as of such dates as he or she may fix at least  
14 twice in each calendar year. Only summary examinations and  
15 reports shall be required in respect of fiduciary activities that  
16 are subject to court accounting. A report of examination shall  
17 be sent to the organization examined.

18           (d) In the event that the Commissioner has not received  
19 a satisfactory or equivalent rating of a corporation by its  
20 primary safety and soundness regulator for the most recent  
21 examination period, the Commissioner may examine any  
22 corporation the majority of the stock of which is owned by a  
23 territorial bank or which is found by the Board to be controlled  
24 by a territorial bank.

1           (e) In the event that it has not received a satisfactory or  
2 equivalent rating by its primary safety and soundness regulator  
3 for the most recent examination period, the Commissioner shall  
4 examine the condition of each state chartered bank authorized  
5 to do business on Guam in conjunction with the examination  
6 performed by the Federal Deposit Insurance Corporation and  
7 State Regulatory Authority and shall require each such  
8 organization to submit a report of its condition as of such dates  
9 as he or she may fix at least twice in each calendar year. Only  
10 summary examinations and reports may be required in respect  
11 of fiduciary activities that are subject to court accounting. A  
12 report of examination shall be sent to the organization  
13 examined.

14           (f) In the event that it has not received a satisfactory or  
15 equivalent rating by its primary safety and soundness regulator  
16 for the most recent examination period, the Commissioner may  
17 examine each state bank and may require each such  
18 organization to submit a report of its condition as of such dates  
19 as he or she may fix. Only summary examinations and reports  
20 may be required in respect of fiduciary activities that are  
21 subject to court accounting. A report of examination shall be  
22 sent to the organization examined.

23           (g) The Board shall determine the need and frequency  
24 for necessary reporting and for examination of insurance

1 carriers, but shall require an examination no less often than  
2 once every five (5) years.

3 (h) The Board shall determine the need and frequency  
4 for examination of all of the entities referenced under §103101  
5 of this Chapter.

6 **§103116. Records of the Division.**

7 (a) Information from the records of the Division shall  
8 not be revealed to any person other than members of the Board,  
9 except with the consent of the Commissioner and shall not be  
10 subject to subpoena, unless otherwise permitted by territorial,  
11 state or Federal law, rule or regulation.

12 (b) Reports of examinations made by the Division shall  
13 be retained for five (5) years.

14 (c) The Commissioner shall keep and preserve in a  
15 permanent form a full record of all proceedings, including all of  
16 his or her orders, findings and decisions and a full statement of  
17 his/her reasons for arriving at and issuing the same.

18 (d) A copy of any document on file with the Division  
19 that is certified by the Commissioner as being a true copy may  
20 be introduced in evidence as if it were the original pursuant to  
21 the provisions of Guam law.

22 (e) The Commissioner shall establish a schedule of fees  
23 for copies of documents and may adopt regulations prescribing  
24 the method for maintaining records in accordance with the  
25 Administrative Adjudication Act.

1           **§103117. Preservation of Records.**

2           (a) Every territorial bank and insurance company shall  
3 retain its business records for such periods as are or may be  
4 prescribed by or in accordance with the terms of this Title.

5           (b) Each territorial bank shall retain permanently the  
6 minute books of meetings of its stockholders and directors, its  
7 capital stock ledger and capital stock certificate ledger or stubs,  
8 its general ledger, its investment ledger, its copies of bank  
9 examination reports, and all records which the Board shall, in  
10 accordance with the terms of this Title, require to be retained  
11 permanently. The Commissioner in his/her discretion may  
12 require that certain records be reproduced and stored in a safe  
13 deposit box.

14           (c) Each insurance company shall retain permanently  
15 the minute books of meetings of its stockholders and directors,  
16 its ledgers, and all records that the Board shall, in accordance  
17 with the terms of this Title, require to be retained permanently.  
18 The Commissioner in his/her discretion may require that  
19 certain records be reproduced and stored in a safe deposit box.

20           (d) All other bank and insurance records shall be  
21 retained for such periods as the Board shall, from time to time,  
22 issue regulations classifying all records kept by territorial banks  
23 and insurance companies and prescribing the period for which  
24 records of each class shall be retained. Such periods may be  
25 permanent or for a lesser term of years. Such regulations, may

1 from time to time, be amended or repealed. Prior to issuing  
2 any such regulation, the Board shall consider:

3 (1) Actions at law and administrative proceedings  
4 in which the production of records might be necessary or  
5 desirable.

6 (2) Territorial, State and Federal statutes of  
7 limitations applicable to such actions or proceedings.

8 (3) The availability of information contained in  
9 bank and insurance company records from other sources.

10 (4) Such other matters as the Board shall deem  
11 pertinent in order that its regulations will require banks  
12 and insurance companies to retain their records for as  
13 short a period as is commensurate with the interests of  
14 customers and shareholders and of the people of Guam.

15 (e) Any territorial bank or insurance company may  
16 dispose of any record which has been retained for the period  
17 prescribed by or in accordance with the terms of this Title for  
18 retention of records of its class, and shall thereafter be under no  
19 duty to produce such record in any action or proceeding.

20 (f) Any territorial bank or insurance company may  
21 cause any or all records at any time in its custody to be  
22 reproduced photographically or electronically pursuant to the  
23 provisions of Guam law and any reproduction so made shall  
24 have the same force and effect as the original thereof and be  
25 admitted in evidence equally with the original.

1           (g) To the extent that they are not in contravention of  
2 any law of the United States, the provisions of this Section shall  
3 apply to all banks and insurance companies doing business in  
4 Guam.

5           **§103118. Standards in Regulations.** The Board and the  
6 Commissioner, in the exercise of the power to make rules and issue  
7 regulations pursuant to this Title, shall act in the interests of  
8 promoting and maintaining sound banking and insurance systems,  
9 the security of deposits and depositors and other customers, the  
10 preservation of the liquid position of banks, the compliance with  
11 local law or regulation of any bank, and in the interest of preventing  
12 injurious credit expansions and contractions, and injury to the people  
13 of Guam.

14           **§103119. Practices Injurious to Free Competition.** Except as  
15 otherwise expressly provided by law, no person directly or indirectly  
16 shall enter into any contract, understanding or combination with any  
17 insurer or manager, agent or representative thereof for the purpose  
18 of, nor shall any such persons or insurers jointly or severably do any  
19 act or engage in any practice for the purpose of:

20           (a) Controlling the rates to be charged, or the  
21 commissions or other compensations to be paid, for insuring  
22 any risk or class of risks; or

23           (b) Entering into any agreement to commit, or  
24 individually or by any concerted action committing, any act of  
25 boycott, coercion, or intimidation resulting or tending to result

1 in unreasonable restraint of, or a monopoly in, the business of  
2 insurance.

3 **§103120. Creation of the Banking and Insurance Enforcement**  
4 **Fund.** There is hereby established, separate and apart from other  
5 funds of the government of Guam, a special fund known as the  
6 'Banking and Insurance Enforcement Fund' (hereinafter the 'Fund').  
7 The Fund shall not be commingled with the General Fund or any  
8 other fund of the government of Guam. The Fund shall be held in an  
9 account or accounts at a Guam financial institution or institutions  
10 separate and apart from all other accounts and funds of the  
11 government of Guam. The Fund shall *not* be subject to *I Maga'lahi's*  
12 transfer authority. The Fund shall be used for enforcement within the  
13 purview of the Office of Commissioner of Banking and Insurance,  
14 and the Banking and Insurance Board, subject to appropriations."

15 **Section 3. The following changes are made to Title 11 of the Guam**  
16 **Code Annotated: (a) §100102 of Chapter 100 is *amended*; (b) §100103 of**  
17 **Chapter 100 is *amended*; (c) §106601 (a) of Chapter 106 is *amended*; and (d)**  
18 **a new Chapter 104 is *added*, as follows:**

19 (a) §100102 of Chapter 100:

20 "§100102. *Automated Teller Machine (ATM), Bank, Territorial*  
21 *Bank, Commercial Bank, Savings Bank, State Bank, National Bank,*  
22 *as used in this Title:*

23 '*Automated teller machine*' ('ATM') means a customer/bank  
24 communication terminal ('CBCT') or other such device either  
25 manned or unmanned which may be activated through an accepted

1 card or other means of access to an account at a financial institution,  
2 as such terms are defined in 15 U.S. Code § 1693a of the Electronic  
3 Funds Transfer Act; or any other electronic terminal or device either  
4 manned or unmanned which may be activated by the use of a credit  
5 card for the purpose of obtaining credit from the card issuer, as such  
6 terms are defined in 15 U.S. Code § 1602 of the Truth in Lending Act,  
7 other than a device provided and maintained by the card issuer or  
8 under its authority for the sole purpose of electronically authorizing  
9 sales transactions at a merchant's place of business. A device shall  
10 not be deemed maintained or provided under authority of the card  
11 issuer merely by reason of the fact that credit may be obtained  
12 electronically through the device.

13 *'Bank' or 'Commercial Bank,'* except as otherwise provided in this  
14 Title, means an officially chartered institution empowered to receive  
15 deposits, make loans, provide checking and savings account services,  
16 and/or conduct a general commercial banking activity, organized  
17 under strict requirements of either the Federal or a state or territorial  
18 government.

19 *'Bank holding company'* means a bank holding company as  
20 defined in Section 2(a)(1) of the Bank Holding Company Act of 1956,  
21 as amended.

22 *'Control'* shall be construed consistent with Section 2(a)(2) of  
23 the Bank Holding Company Act of 1956, as amended.



1           ‘Customer/bank communication terminal’ (‘CBCT’) has the  
2 meaning set forth in this Section for ‘automated teller machine’  
3 (‘ATM’).

4           ‘National Bank’ means any bank chartered under the national  
5 banking laws of the United States.

6           ‘Out-of-state bank’ has the meaning set forth in §106351 of this  
7 Title.

8           ‘Savings Bank’ means any bank whose charter limits its powers  
9 to accepting deposits to accounts that which may only be withdrawn  
10 after notice.

11           ‘State Bank’ means any bank chartered under the banking laws  
12 of one of the states of the United States.

13           ‘Territorial Bank’ means any bank chartered by Guam.”

14 **(b) §100103 of Chapter 100:**

15           **“§100103. General Definitions. In this Title, unless the context**  
16 **otherwise requires:**

17           ‘Action’ in the sense of a judicial proceeding includes  
18 recoupment, counter-claim, set-off, suit in equity and any other  
19 proceedings in which rights are determined.

20           ‘Board’ when used with an initial capital letter means the  
21 Banking and Insurance Board of Guam.

22           ‘Commissioner’ means the Commissioner of Banking and  
23 Insurance.

1            *'Community'* means a city, town, municipality or incorporated  
2 village in Guam, or where not within any of the foregoing, a trade  
3 area in Guam.

4            *'Court'* means a court of competent jurisdiction.

5            *'Department'* means the Department of Revenue and Taxation.

6            *'Division'* means the Division of Insurance, Securities and  
7 Banking within the Department of Revenue and Taxation.

8            *'Executive Officer'* when referring to a bank, means any person  
9 designated as such in the by-laws and includes, whether or not so  
10 designated, the president, any vice-president, the treasurer, the  
11 cashier, the comptroller and the secretary, or any person who  
12 performs the duties appropriate to those offices.

13           *'Fiduciary'* means trustee, agent, executor, administrator,  
14 committee, guardian or conservator for a minor or other incompetent  
15 person, receiver, trustee in bankruptcy, assignee for creditors or any  
16 holder of a similar position of trust.

17           *'Good faith'* means honesty in fact in the transaction and some  
18 reasonable ground for belief that the transaction is rightful or  
19 authorized.

20           *'Item'* means any instrument for the payment of money even  
21 though negotiable, but does not include money.

22           *'Officer'* when referring to a bank, means any person designated  
23 as such in the by-laws and includes, whether or not so designated,  
24 any executive officer, the chairman of the board of directors, the  
25 chairman of the executive committee, and any trust officer, assistant

1 vice president, assistant treasurer, assistant cashier, assistant  
2 comptroller or any person who performs the duties appropriate to  
3 those offices.

4 *'Person'* means an individual, corporation, partnership, joint  
5 venture, trust estate or unincorporated association.

6 *'Reason to know'* means that upon the information available to a  
7 person of ordinary intelligence in the particular business, or of the  
8 superior intelligence or experience which the person in question may  
9 have, would infer that the fact in question exists or that there is such  
10 a substantial chance of its existence that, if exercising reasonable care  
11 with reference to the matter in question, conduct would be  
12 predicated upon the assumption of its possible existence."

13 **(c) §106601 (a) of Chapter 106:**

14 **"§106601. Branch Banks.**

15 (a) As used in this Article, unless a different meaning is  
16 required by the context, the following words and phrases shall have  
17 the following meanings:

18 *'Branch'* means a place of business of a bank, other than  
19 the bank's main office, at which deposits are received, loan  
20 payments are received, cash is dispensed or money is lent. A  
21 customer-bank communication terminal, also commonly  
22 known as an 'automated teller machine,' or 'ATM,' is not a  
23 branch.

24 *'Out-of-state bank'* has the meaning set forth in §106351 of  
25 this Chapter.

1                    '*Interstate merger transaction*' has the meaning set forth in  
2                    §106351 of this Chapter."

3                    **(d) New Chapter 104:**

4                                    **"CHAPTER 104**

5                                    **AUTOMATED TELLER MACHINE ENTITIES**

6                    **§104101. Regulation.**

7                    **§104102. Penalties.**

8                    **§104103. Criminal Offender Record Information Requests.**

9                                    **§104101. Regulation.**

10                                   (a) Every entity shall obtain a license issued by the  
11                                   Department for each automated teller machine ('ATM') owned,  
12                                   operated, maintained or deployed. For the purpose of this  
13                                   Chapter, 'Entity' means and includes individuals,  
14                                   organizations, businesses and other persons acquiring,  
15                                   deploying, operating or maintaining one or more automated  
16                                   teller machines, or which permit one or more automated teller  
17                                   machines to be deployed, operated or maintained on premises  
18                                   controlled by it. 'Entity' shall not include commercial banks as  
19                                   defined and regulated under this Title.

20                                   (b) The review and approval process for a license  
21                                   under this Chapter shall be conducted by the Banking and  
22                                   Insurance Board.

23                                   (c) The Board may license an entity if all of the  
24                                   following are provided to the Department and presented to the  
25                                   Board pursuant to Subsection (b) of this Chapter:

1           (1) The entity submits a comprehensive financial  
2 review of its finances as may be required by the Board.

3           (2) The entity submits a financial review, as may  
4 be required by the Board, of all shareholders holding  
5 more than five percent (5%) of the outstanding shares,  
6 whether voting or non-voting, of each class of common or  
7 preferred stock of the entity, all officers, all partners and  
8 any agents of the entity, and the entity's business tax  
9 returns, statements of net worth and liabilities, and proof  
10 of ability to support any liabilities to be incurred.

11           (3) The entity validates, as the case may be, the  
12 identification of all shareholders holding more than five  
13 percent (5%) of the outstanding shares, whether voting or  
14 non-voting, of the common or preferred stock of the  
15 entity, all officers, and all partners and any agents of the  
16 entity. Validation shall include all of the following:

17                   (a) Name to social security number  
18 matches.

19                   (b) Criminal record checks.

20                   (c) Residency verification.

21                   (d) A check against a list provided by the  
22 Office of Foreign Assets Control in the  
23 United States Department of Treasury.

24                   (e) Business records check.

1 (4) The entity submits a review of its current and  
2 previous foreign and domestic acquirer business  
3 relationships.

4 (5) The entity demonstrates that comprehensive  
5 and verifiable 'ATM' inventory procedures and controls  
6 are established and implemented that identify the  
7 location of any and all 'ATMs', whether initially installed  
8 at a location or subsequently relocated.

9 (6) The entity submits a review of the soundness of  
10 its general business and operating practices with respect  
11 to its ability to manage the risks inherent in its business,  
12 including demonstrating its knowledge of the parties  
13 with which it contracts, demonstrating adequate  
14 operating reporting practices, and demonstrating  
15 adequate record keeping.

16 (7) The entity submits information as to the  
17 proposed place of operation or deployment of the  
18 automated teller machine.

19 (8) The entity shall furnish such other information  
20 as the Board may require in evaluating the application for  
21 a license.

22 (d) The fee to be paid by an entity applying for  
23 licensure by the Board shall be no less than the fee paid by  
24 banks operating automated teller machines on Guam. The fee  
25 and all fees related to the licensing of automated teller

1 machines shall cover the costs to the Department for licensing  
2 the entity. Such fee shall be deposited into the Banking and  
3 Insurance Enforcement Fund.

4 (e) Any entity issued a license under this Chapter other  
5 than an entity which is a financial institution, the deposits of  
6 which are insured by an agency or instrumentality of the  
7 United States of America, shall, as a condition to such license,  
8 furnish to and maintain with the Commissioner a surety bond,  
9 or cash deposit, in the amount of at least One Million Dollars  
10 (\$1,000,000) as security for all claims or demands that may be  
11 asserted and sustained against the entity holding the license  
12 and related in any way to an automated teller machine licensed  
13 to such entity, including, *but not limited to*, improper use of  
14 information derived from any transactions processed using an  
15 automated teller machine licensed to such entity.

16 (f) Any Automated Teller Machine not operated by a  
17 bank or other Federally insured financial institutions shall  
18 display a disclaimer prominently in plain view on each  
19 machine that states the following:

20 'This Automated Teller Machine is not operated by a  
21 Federally insured financial institution.'

22 **§104102. Penalties.** It shall be a misdemeanor punishable by a  
23 fine of not more than Twenty-Five Thousand Dollars (\$25,000) if any  
24 entity does any of the following:

1 (a) Conducts business in Guam without being licensed  
2 pursuant to this Chapter.

3 (b) All penalties, fines and licensing fees collected  
4 under this Chapter and from all licensing fees paid by all banks  
5 in Guam for the operation of an automated teller machine or  
6 customer-bank communication terminal shall be set aside in the  
7 Banking and Insurance Enforcement Fund to be utilized by the  
8 Department to enforce the provisions of this Section.

9 **§104103. Criminal Offender Record Information Requests.**

10 (a) The Department may submit fingerprint images  
11 and related information to the U. S. Department of Justice with  
12 respect to the license application of an individual defined under  
13 §104101(a) as an entity, for the purpose of obtaining  
14 information as to the existence and nature of a record of state  
15 and Federal convictions and arrests for which the U. S.  
16 Department of Justice establishes that the individual was  
17 released on bail or on his or her own recognizance pending  
18 trial.

19 (b) Requests from the Department for Federal criminal  
20 offender record information received by the U.S. Department of  
21 Justice pursuant to this Section shall be forwarded by the U. S.  
22 Department of Justice to the Federal Bureau of Investigation.”

23 **Section 4.** Chapter 104 of Title 11, Guam Code Annotated,  
24 [Subsection (d) of Section 3 of the Bill (on page 38)] shall be effective  
25 immediately; however, its provisions shall be enforced for those entities



1 with existing licenses for ATMs only upon renewal of those licenses but not  
2 later than July 1, 2004.

3 **Section 5. The following changes are made to Title 14 of the Guam**  
4 **Code Annotated: (a) Subitem (1) of §4107 is *amended*, (b) Subitem (3) of**  
5 **§4108 is *amended*, (c) §4111 is *amended*, and (d) Subitems (1), (2), (3) and**  
6 **(4) of §4203 are *amended* as follows:**

7 **(a) Subitem (1) of §4107:**

8 “(1) Except as provided in Subsection (2), if a creditor  
9 contracts for or receives a separate charge for insurance, the amount  
10 charged to the debtor for the insurance may not exceed the premium  
11 to be charged by the insurer, as computed at the time the charge to  
12 the debtor is determined, conforming to any rate filings required by  
13 law and made by the insurer with the Commissioner of Banking and  
14 Insurance.”

15 **(b) Subitem (3) of §4108:**

16 “(3) A refund or credit required by Subsection (2) is  
17 appropriate as to amount if it is computed according to a method  
18 prescribed or approved by the Commissioner of Banking and  
19 Insurance or a formula filed by the insurer with the Commissioner of  
20 Banking and Insurance at least thirty (30) days before the debtor’s  
21 right to a refund or credit becomes determinable, unless the method  
22 or formula is employed after the Commissioner of Banking and  
23 Insurance notifies the insurer that he or she disapproves it.”

24 **(c) §4111:**

1           **“§4111. Cooperation Between Administrator and**  
2           **Commissioner of Banking and Insurance.**

3           The Administrator and the Commissioner of Banking and  
4 Insurance are authorized and directed to consult and assist one  
5 another in maintaining compliance with this Chapter. They may  
6 jointly pursue investigations, prosecute suits and take other official  
7 action, as may seem to them appropriate, if either of them is  
8 otherwise empowered to take the action. If the Administrator is  
9 informed of a violation or supposed violation by an insurer of this  
10 Chapter, or of the insurance laws and regulations of Guam, he or she  
11 shall advise the Commissioner of Banking and Insurance of the  
12 circumstances.”

13           **(d) Subitems (1), (2), (3) and (4) of §4203:**

14           “(1) A creditor may not provide consumer credit insurance  
15 upon a form delivered or issued for delivery in Guam or at a  
16 premium rate or charge unless the form and premium rate or charge  
17 have been approved by the Commissioner of Banking and Insurance  
18 or have been on file with him or her for thirty (30) days and he or she  
19 has not notified the insurer of his/her disapproval.

20           (2) All policies, certificates of insurance, notices of proposed  
21 insurance, applications for insurance, endorsements and riders  
22 relating to consumer credit insurance delivered or issued for delivery  
23 in Guam and the schedules of premium rates or charges pertaining  
24 thereto shall be filed by the insurer with the Commissioner of  
25 Banking and Insurance.

1           (3) If a group policy of consumer credit insurance has been  
2 or is delivered in another state before or after the effective date of this  
3 Act, the insurer shall file with the Commissioner of Banking and  
4 Insurance the group certificate of insurance and notice of proposed  
5 insurance delivered or issued for delivery in Guam and the schedules  
6 of premium rates or charges pertaining thereto.

7           (4) The Commissioner of Banking and Insurance shall,  
8 within thirty (30) days after the filing, according to Subsection (2) or  
9 (3), of any form or schedule of premium rates or charges, disapprove  
10 the form or schedule of premium rates or charges and notify the  
11 insurer of his/her disapproval:

12                   (a) if the premium rates or charges are unreasonable in  
13 relation to the benefits provided under the form; or

14                   (b) if the form contains provisions which are unjust,  
15 unfair, inequitable or deceptive or encourage misrepresentation  
16 of the coverage or are contrary to any provision of the  
17 Insurance Code Division 2 of Title 22, Guam Code Annotated,  
18 or of any rule or regulation promulgated thereunder."

19           Section 6. §21105 of Chapter 21 of Title 16 of the Guam Code  
20 Annotated is *amended* to read:

21                   "§21105. Notice to Insured.

22           No cancellation or refusal to renew by an insurer of a policy of  
23 automobile insurance shall be effective unless the insurer shall  
24 deliver or mail, to the named insured at the address shown in the

1 policy, a written notice of the cancellation or refusal to renew. Such  
2 notice shall:

3 (a) Be approved as to form by the Commissioner of  
4 Banking and Insurance prior to use;

5 (b) State the date, not less than thirty (30) days after the  
6 date of such mailing or delivering on which such cancellation  
7 or refusal to renew shall become effective, except that such  
8 effective date may be fifteen (15) days from the date of mailing  
9 or delivery when it is being cancelled or not renewed for the  
10 reason set forth in §21104;

11 (c) State the specific reason or reasons of the insurer for  
12 cancellation or refusal to renew or be accompanied by a  
13 statement that upon written request of the named insured,  
14 mailed or delivered to the insurer not less than twenty (20)  
15 days prior to the effective date of cancellation or refusal to  
16 renew, the insurer will specify the reason or reasons for such  
17 cancellation, or refusal to renew, the insurer to supply such  
18 information within five (5) days of receipt by it of such request;  
19 and

20 (d) Advise the insured of his right to request in writing,  
21 within ten (10) days of the receipt of the notice of cancellation  
22 or intention not to renew, or of the receipt of the reason or  
23 reasons for the cancellation or refusal to renew, if they were not  
24 stated in the notice of cancellation or of intention not to renew,

1           that the Commissioner of Banking and Insurance review the  
2           action of the insurer.”

3           **Section 7. The following changes are made to Title 22 of the Guam**  
4 **Code Annotated: (a) Subitem (l) is *amended* and new Subitems (ff), (gg)**  
5 **and (hh) are *added* all to §12104, Article 1, Chapter 12, Division 2; (b)**  
6 **§15704.1 of Article 7, Chapter 15, Division 2 is *amended*; (c) Subitems (f),**  
7 **(g) and (h) of §15704.2 of Article 7, Chapter 15, Division 2 are *amended*;**  
8 **(d) §15803 of Article 8, Chapter 15, Division 2 is *amended*; (e) §15804 of**  
9 **Article 8, Chapter 15, Division 2 is *amended*; (f) Subitem (5) of §23101 of**  
10 **Chapter 23, Division 2 is *amended*; (g) §23120 of Chapter 23, Division 2 is**  
11 ***amended*, as follows:**

12           **(a) Subitems (l), (ff), (gg) and (hh) of §12104, Article 1, Chapter 12,**  
13 **Division 2:**

14           “(1) ‘*Department*’ means the Department of Revenue and  
15           Taxation.

16           (ff) ‘*Board*’ means the Banking and Insurance Board.

17           (gg) ‘*Commissioner*’ means the Commissioner of Banking and  
18           Insurance.

19           (hh) ‘*Office*’ means the office of the Commissioner of Banking  
20           and Insurance.”

21           **(b) §15704.1 of Article 7, Chapter 15, Division 2:**

22           “§15704.1. **Application for License.**

23           (a) A person applying for a resident insurance  
24           producer license shall make application to the Commissioner of  
25           Banking and Insurance on the Uniform Application and declare

1 under penalty of refusal, suspension or revocation of the license  
2 that the statements made in the application are true, correct and  
3 complete to the best of the individual's knowledge and belief.  
4 Before approving the application, the Commissioner of Banking  
5 and Insurance shall find that the individual:

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

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

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

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

13 (b) A business entity acting as an insurance producer is  
14 required to obtain an insurance producer license. Application  
15 shall be made using the Uniform Business Entity Application.  
16 Before approving the application, the Commissioner of Banking  
17 and Insurance shall find that:

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

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

24 (c) Subitems (f), (g) and (h) of §15704.2 of Article 7, Chapter 15,

25 **Division 2:**

1           “(f) The license shall contain the licensee's name,  
2 address, personal identification number, the date of issuance,  
3 the lines of authority, the expiration date and any other  
4 information the Commissioner of Banking and Insurance  
5 deems necessary.

6           (g) Licensees shall inform the Commissioner of  
7 Banking and Insurance by any means acceptable to the  
8 Commissioner of Banking and Insurance of a change of address  
9 within ninety (90) days of the change.

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

19 **(d) §15803 of Article 8, Chapter 15, Division 2:**

20 **“§15803. Affidavit as Prerequisite to Procurement of Insurance:**  
21 **Contents.**

22           Before the person named in such license shall procure, effect or  
23 issue any such insurance policy or indemnity contract or surety bond,  
24 he or she shall in every case execute and file with the Commissioner  
25 his or her affidavit in acceptable form that the insured is unable to

1 procure in any company or companies or insurers admitted to do  
2 business in Guam the amount or kind of insurance necessary to  
3 protect the property or undertakings of the insured, described in  
4 such affidavit at rates *not less than* the minimum rates on such  
5 property promulgated by an authorized rating bureau or other  
6 bureau or conference whose rates have been accepted by the  
7 Commissioner of Banking and Insurance, and filed in the insurance  
8 department as the fair and equitable rate."

9 **(e) §15804 of Article 8, Chapter 15, Division 2:**

10 **"§15804. Limitations on Issuance: Endorsement on Policy:**  
11 **Filing of Power of Attorney: Validity of Power.**

12 Such surplus line insurance shall only be issued after the  
13 insured has procured insurance in companies admitted to do  
14 business on Guam to the full amount which such companies are  
15 willing to write on such property. Every policy issued under this  
16 Section shall be endorsed 'Issued in an unauthorized company, under  
17 agent's (or broker's) license no. \_\_\_\_\_' which endorsement shall be  
18 properly filled in and signed by the broker or agent.

19 Before registering and delivering any such policy for an  
20 unauthorized insurance company or insurer, such broker or agent  
21 shall procure from such company or insurer a power of attorney  
22 which shall empower him or her as its attorney in fact to receive and  
23 accept on its behalf service of any and all writs, processes and  
24 summonses requisite or necessary to give complete jurisdiction of  
25 any such company or insurer to any of the courts of Guam, and shall



1 be deemed to constitute such attorney the authorized agent of such  
2 company or insurer upon whom lawful service may be made of all  
3 writs, processes and summonses in any case, suit or proceeding in  
4 any court mentioned herein. Such power of attorney shall be valid so  
5 long as such company or insurer has any liability existing in Guam  
6 on account of any outstanding policies or unpaid claims pending  
7 against it. Such broker or agent shall file such power of attorney with  
8 the Commissioner of Banking and Insurance promptly on receipt of  
9 same."

10 **(f) Subitem (5) of §23101 of Chapter 23, Division 2:**

11 "(5) Commissioner means the Commissioner of Banking  
12 and Insurance."

13 **(g) §23120 of Chapter 23, Division 2:**

14 **"§23120. Confidentiality Treatment of Captive Information.**

15 All information pertaining to Guam Captive Insurance  
16 Companies shall be deemed proprietarily and confidential unless:

17 (a) The Commissioner of Banking and Insurance deems it in  
18 the public interest to make such information available for public  
19 inspection; or

20 (b) The Parent authorizes the Commissioner of Banking and  
21 Insurance to make available such information for public inspection."

22 **Section 8. Repeal.** Article 2 of Chapter 12 of Division 2 of Title 22 of  
23 the Guam Code Annotated, is hereby *repealed*.

24 **Section 9.** The Banking Board to be replaced by the Banking and  
25 Insurance Board pursuant to this Act, shall continue its functions for ninety

1 (90) days after this Act becomes law, and on the ninety-first (91st) day shall  
2 cease to exist and shall have no further authority to act.

3 **Section 10. Name changes.** All references in Guam Law to the  
4 "Banking Commissioner" and the "Insurance Commissioner" shall be  
5 changed to the "Commissioner of Banking and Insurance." All references  
6 to the "Banking Board" shall be changed to the "Banking and Insurance  
7 Board." The Compiler of Law shall make all changes as provided herein.

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



Office of Senator Antoinette (Toni) Sanford  
Assistant Majority Leader

TWENTY-SEVENTH GUAM LEGISLATURE

Chairwoman, Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions

Suite 15B, 777 Route 4, Sinajana, Guam 96910 / Telephone (671) 479-8664/6 Fax (671) 479-8667 Email: [senatorsanford@ite.net](mailto:senatorsanford@ite.net)

April 2, 2004

Senator Lou Leon Guerrero  
Chairperson, Committee on Rules & Health  
TWENTY-SEVENTH GUAM LEGISLATURE  
155 Hesler Street  
Hagatna, Guam 96910

Dear Senator Leon Guerrero,

The Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions, to which Bill No. 119 as substituted by the Author and further substituted by Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions, "An act to repeal and reenact Chapter 103 of Title 11 GCA and to repeal Chapter 12 of Division 2 of Title 22 of GCA relative to creating the Office of Commissioner on Banking and Insurance within the Division of Insurance, Securities and Banking of the Department of Revenue and Taxation", was referred, wishes to report its findings and recommendation TO DO PASS as substituted by the Committee.

The voting record is as follows:

TO PASS

\_\_\_\_\_

NOT TO PASS

\_\_\_\_\_

ABSTAIN

\_\_\_\_\_

TO PLACE IN INACTIVE FILE

\_\_\_\_\_

Copies of the Committee report and other pertinent documents are attached.

Antoinette (Toni) Sanford

Attachment.



# Office of Senator Antoinette (Toi..) Sanford

## Assistant Majority Leader

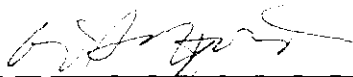
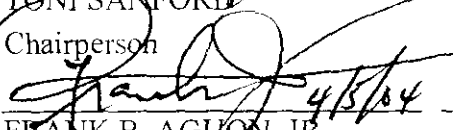
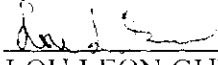
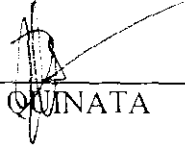

TWENTY-SEVENTH GUAM LEGISLATURE

Chairwoman, Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions

Suite 15B, 777 Route 4, Sinajana, Guam 96910 / Telephone (671) 479-8664/6 Fax (671) 479-8667 Email: [senatorsanford@lte.net](mailto:senatorsanford@lte.net)

Bill No. 119 as substituted by the Author and further substituted by Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions, "An act to repeal and reenact Chapter 103 of Title 11 GCA and to repeal Chapter 12 of Division 2 of Title 22 of GCA relative to creating the Office of Commissioner on Banking and Insurance within the Division of Insurance, Securities and Banking of the Department of Revenue and Taxation"

	TO PASS	NOT TO PASS	TO ABSTAIN	INACTIVE FILE
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 TONI SANFORD Chairperson				
 FRANK B. AGUON, JR. Vice-Chairperson				
LARRY KASPERBAUER Member				
 LOU LEON GUERRERO Member				
JESSE A. LUJAN Member				
TINA MUNA-BARNES Member				
 JOHN M. QUINATA Member				
 RORY J. RESPICIO Member				
BEN C. PANGELINAN Speaker & Ex-officio Member				



Office of Senator Antoinette (Toni) Sanford  
Assistant Majority Leader

TWENTY-SEVENTH GUAM LEGISLATURE

Chairwoman, Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions  
Suite 15B, 777 Route 4, Sinajana, Guam 96910 /Telephone (671) 479-8664/6 Fax (671) 479-8667 Email: [senatorsanford@ite.net](mailto:senatorsanford@ite.net)

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April 2, 2004

MEMORANDUM

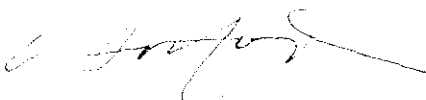
TO: Committee Members

FROM: Chairwoman

SUBJECT: Committee Report and Voting

Transmitted herewith for your information and action is the report Bill No. 119 as substituted by the Author and further substituted by Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions, "An act to repeal and reenact Chapter 103 of Title 11 GCA and to repeal Chapter 12 of Division 2 of Title 22 of GCA relative to creating the Office of Commissioner on Banking and Insurance within the Division of Insurance, Securities and Banking of the Department of Revenue and Taxation."

Please review the report and take the appropriate action on the voting sheet. Your prompt attention and action on this matter is greatly appreciated. Should you have any questions regarding the report or accompanying documents, please do not hesitate to contact me.

  
Antoinette (Toni) Sanford

Attachment.

COMMITTEE ON ECONOMIC DEVELOPMENT, RETIREMENT, INVESTMENTS,  
PUBLIC WORKS, AND REGULATORY FUNCTIONS

Twenty-Seventh Guam Legislature  
155 Hesler Street, Hagatna Guam 96910



COMMITTEE REPORT  
ON

**BILL NO. 119 (COR)**

As Substituted by the Author and further Substituted by the Committee on Economic  
Development, Retirement, Investments, Public Works and Regulatory Functions

AN ACT TO REPEAL AND REENACT CHAPTER 103 OF  
TITLE 11 OF THE GUAM CODE ANNOTATED AND TO  
REPEAL CHAPTER 12 OF DIVISION 2 OF TITLE 22 OF THE  
GUAM CODE ANNOTATED, RELATIVE TO CREATING THE  
OFFICE OF COMMISSIONER ON BANKING AND  
INSURANCE WITHIN THE DIVISION OF INSURANCE,  
SECURITIES AND BANKING OF THE DEPARTMENT OF  
REVENUE AND TAXATION.

COMMITTEE MEMBERS

Chairperson Senator Toni Sanford  
Vice-Chairperson Senator Frank B. Aguon, Jr.

Majority Members

Senator Lou Leon Guerrero  
Senator Tina Muña Barnes  
Senator John M. Quinata  
Senator Rory J. Respicio  
Speaker ben c. pangelinan

Minority Members

Senator Jesse A. Lujan  
Senator Larry Kasperbauer

## I. OVERVIEW

### A. Purpose and Essential Elements

[NOTE: Bill 119 as Substituted by the Author was originally publicly heard on June 11, 2003, amended in Committee and reported out to the Committee on Rules. The members of the Committee on Rules referred the bill back to the Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions for additional amendments and a second public hearing, to be conducted on the further amended bill.]

Unlike Guam, most jurisdictions in the United States place the responsibility of overseeing the operations and functions of the banking and insurance industries in the hands of a Commissioner or Commissioners on Banking and Insurance or their equivalents. In Guam these responsibilities are held by the Director of the Department of Revenue and Taxation.

The responsibilities of overseeing the collection of taxes and fees, the auditing and enforcement of Guam's tax codes, as well as the administration and direction of the other functions of the Department are in and of themselves enormous and require the full-time attention of the Director, without the added distractions of overseeing the Banking and Insurance industries.

The purpose of Bill 119 is to place the responsibilities of the Banking and Insurance Commissioner with the newly created position of Commissioner on Banking and Insurance within the Department of Revenue and Taxation.

### B. Section By Section

#### **Section 1. Legislative Findings and Intent:**

Finds that Guam is one of few jurisdictions that do not have a Commissioner on Banking and Insurance or equivalent. Responsibility overseeing collection of taxes and fees, the auditing and enforcement of Guam's tax codes, and directing other functions of Rev & Tax require full-time attention of Director, therefore Legislature intends to relieve Director of oversight of banking and insurance industries by creating position of Commissioner on Banking and Insurance within the Department of Revenue and Taxation.

#### **Section 2. repeals and reenacts Chapter 103 of Title 11 GCA**

Creates the Office of Commissioner on Banking and Insurance within the Division of Insurance, Securities and Banking of Rev & Tax.

**§103101. Establishment.** Establishes Office of Commissioner on Banking and Insurance in Division of Insurance, Securities and Banking of Rev & Tax. Defines what constitutes a bank: *"references to banks and banking shall include, where applicable, savings and loans, finance companies, mortgage brokers, credit unions, pawnshops, check cashing companies, foreign exchange companies and the like, including any businesses that make loans, accept deposits, sell notes, corporate paper, debentures or similar instruments, operate Automated Teller Machine (ATM) services, or transmit funds."*

**§103102. Banking and Insurance Commissioner.** Creates position appointed by Governor, confirmed by Legislature, serves under direction of Director of Rev & Tax. Salary is equivalent of Director. Specifies qualifications for position of Commissioner. Specifies powers of commissioner. Deputy Director is NOT eliminated as in original bill.

**§103103. Banking and Insurance Board.** Board consists of ten members including Commissioner who is Chair, and replaces Banking Board. Banking Board ceases to exist when act becomes effective. Three members from banking community, three from insurance community, three from general public one of whom may be GovGuam employee are appointed by Governor with Legislative approval. Six members constitutes a quorum and six votes necessary for action. Serve six-year terms except original appointees of which three shall serve two year terms, three shall serve four year terms and three shall serve six year terms.

**§103104. Powers of Board and Commissioner.** Regulates procedure and practice. Implement provisions and rules not inconsistent with law under AAA. Specifies powers of Board relative to banking and insurance industries. Board must periodically review existing banking and insurance codes and make recommendations for change.

**§103105. Order of the Commissioner.** Findings, decisions and orders of Commissioner in writing are deemed orders. States what orders should contain. States how orders should be transmitted.

**§103106. Hearing.** Any person directly affected by order of the Commissioner may request hearing on matter.

**§103107. Enforcement of Orders.** Commissioner may apply for enforcement of order to Superior Court.

**§103108. Court Review.** Persons aggrieved by Board may appeal to Superior Court.

**§103109. Other Employees.** All employees except Commissioner are classified. Commissioner may delegate his powers to employees in division and may designate employee to perform his duties.

**§103110. Banking or Insurance Interests of Officers and Employees.** Employees of Division shall not work for or be shareholders in banks or insurance companies or receive directly or indirectly payment or gratuity. Employees may be account holders.

**§103111. Bond.** Commissioner and employees are prohibited from banking and insurance activities except as account or policy holders. Commissioner must be bonded in amount to be determined and approved by Governor but not less than \$10,000. Bonds are required for handling money or securities.



**§103112. Limitation of Personal Liability.** Members of Board and employees not liable in civil action for damages while performing job in good faith.

**§103113. Fees to Defray Expenses of Division.** Commissioner shall charge examination fees. Board may implement new or revised fees through AAA. Fees are to be paid directly to General Fund

**§103114. Commissioner's Annual Report.** Commissioner submits report annually 60 days after end of each fiscal year. Report to include text of all rules adopted since last report; recommendations for legislation; status of each bank; summary of changes since last report; conditions of every insurer, general condition of insurance business and interests in Guam.

**§103115. Examinations and Reports.** Commissioner shall examine condition of each bank once each year. Board determines need and frequency for examination and reporting of insurance companies. Results of Federal examinations or portions may be used in lieu of similar local exams or portions.

**§103116. Records of the Division.** Records confidential. Records shall be retained for five years. Copies on file with Commissioner may be certified as true copies by Commissioner and introduced in evidence pursuant to Guam law. Commissioner shall establish fees for copies of documents through AAA.

**§103117. Preservation of Records.** Banks and insurance companies shall retain business records for prescribed periods. Banks and insurance companies shall retain books and records required.

**§103118. Standards in Regulations.** Rules and regulations made shall be in best interests of maintaining sound banking and insurance systems, security of deposits, preservation of liquid position of banks and sound insurance system.

**§103119. Practices Injurious to Free Competition.** Controlling rates, commissions or compensation not allowed. Boycott, coercion, intimidation or monopoly not allowed.

**Section 3. Repeals Chapter 12 of Division 2 of title 22GCA.** Original Insurance Commissioner statutes now incorporated into this act.

**Section 4.** Indicates new references for Insurance Commissioner and Banking Commissioner

**Section 5** Severability clause.

### **C. Public Hearing Conducted**

The Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions conducted a public hearing on Bill 119 As Substituted by the Author and further Substituted by the Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions on March 8, 2004,

beginning at at 9:15 a.m. in the Legislative Public Hearing Room, *I Liheslaturan Guahan*, in Hagåtña. Public notice was provided on March 1, 2004 and March 4, 2004.

**[NOTE: This was the second hearing conducted for Bill 119. The first hearing was held on June 11, 2003, on an earlier version of the bill, which was substantially revised for the second hearing. Please note that the report from the first hearing is appended to the end of this report.]**

Committee Chairwoman Toni Sanford called the public hearing to order. Committee members in attendance at that time were: Speaker ben c. pangelinan and Senator Lou Leon Guerrero. Non-member present was Senator Robert Klitzkie. Arriving during the course of the hearing were Senatorial members Tina Rose Muña Barnes and John M. Quinata and Senatorial non-members Carmen Fernandez and Ray Tenorio.

Appearing in favor of the measure were Mr. Larry Butterfield, president of the Guam Banker's Association and Mr. Brion Kanda, Vice President of Underwriting Marketing for Takagi and Associates.

Submitting written testimony in favor of the bill were Mr. Artemio B. Ilagan, Director of the Department of Revenue and Taxation and current Banking & Insurance Commissioner, and Mr. Gerry Perez, Administrator of the Guam Economic Development and Commerce Authority. All written testimony is attached to this report.

## II. SUMMARY OF TESTIMONY

Mr. Larry Butterfield, president of the Guam Banker's Association appeared before the Committee and provided oral testimony in support of Bill 119. He said: "We have testified previously on this. There have been some amendments made to the bill that we believe strengthen it and we support wholeheartedly; among those, are the inclusion of finance companies, mortgage brokers, credit unions, pawn brokers – all the other financially related entities among the group of regulated entities. This is most appropriate and done in all the states in which I am familiar and its done in the public interest. We support it."

Senator Sanford thanked Mr. Butterfield for his testimony. She stated the Committee has heard an earlier version of the bill previously on June 11<sup>th</sup> and because there were major changes made it was decided to conduct another public hearing on the Bill as substituted by the Committee.

Mr. Brion Kanda, Vice President of Underwriting Marketing for Takagi and Associates, a Guam based general insurance agency appeared before the Committee and provided oral testimony in support of the bill. He had provided previous testimony on the bill and asked that that testimony be resubmitted to the Committee in support of the bill in his capacity as Chairman of the Insurance Association of Guam.

Mr. Kanda stated his previous testimonies both on behalf of Takagi and Associates and the Insurance Association of Guam support each other – in favor of Bill 119. He said: "We are very much in favor of the proposal to create a separate office of Banking and Insurance Commissioner. As we all know current law requires or stipulates that that

office and responsibilities of those offices be held by the director of the Department of Revenue and Taxation, which is in addition to all the additional and multi responsibilities of the director as our tax collector in charge of real estate, securities sales, division of motor vehicles and drivers licensing. Any one of those responsibilities in and of themselves would require the full time attention of a person of director level status. The business of insurance, based on data published in the Business Almanac of Guam and the Northern Marianas annual publication of Glimpses of Guam, also publishers of Guam Business Magazine – the last year for which reliable data is available is 2001. The data for 2001 shows that total gross business receipts for Guam was \$3,686,000,000. Insurance premiums alone, totaled \$241 million and that's nearly 7% of the total business receipts for the island's economy. That's quite a substantial segment of the business community that not only should be given some attention but because it is a regulated industry I think must have focused attention by a director level regulator."

Mr. Kanda stated that is why the Association is in support of the bill. He said: "There are some technical concerns and questions we have concerning some of the provisions of the bill, however, generally we are in support and in favor of the bill."

Senator Sanford stated the Committee is interested in Mr. Kanda's comments and technical concerns he may have because the Committee will continue to receive testimonies before the Substitute bill is reported out.

Speaker Pangelinan asked Mr. Butterfield if he had any concerns with regard to how finance companies are going to be regulated, whether we need to be more specific in those regulations rather than just putting them under the banking board's purview and review?

Mr. Butterfield responded that he did not think the statute should necessarily be more specific. He said: "The board and or the Commissioner needs to promulgate regulations that specify exactly what they should do. I don't think that anyone would know now how it should read."

Senator Klitzkie stated, "Under the bill we would ask the same person to regulate everything from pawn shops to large multi-national banking and insurance corporations – is that a full plate for that banking commissioner?"

Mr. Butterfield affirmed, saying, "It's better than the current situation where the head of Revenue and Tax is responsible for a whole bunch of other things as well as these. We will need to have some expertise within this particular department, both as it relates to insurance and banking."

Senator Klitzkie stated in the past Guam had a Banking Commissioner – a gentleman named Bill Thomason and an Insurance Commissioner named Bob Smith – at one time the positions were filled and there actually was regulation. "When those positions were no longer filled, the situation was that the director of revenue and taxation just didn't have time to really devote much attention to it. Even 25 years ago, there probably was enough work for a banking commissioner and enough work for an insurance

commissioner. I am wondering if we might not just be loading that one person up too much?"

Mr. Kanda stated he echoed Mr. Butterfield's comments that if you compare it with the present situation – if you have a director that has 20 different responsibilities now and we're able to remove two of those responsibilities into a position that is focused on those two responsibilities full time, then it would seem clear that some of the focus that has been lacking would be restored.

Senator Klitzkie asked how we would go about regulating some of the small finance companies. "We have the Uniform Credit Code on the books, do we even have regulations for pawn shops?" Mr. Butterfield stated: "I don't know that we do. Typically, and I am familiar with Washington state statutes, the Division of Finance does regulate pawn shops; they do require that the operator submit annual financial statements and they are subject to licensing by the Division of Finance and if they are found not to have an adequate financial condition than they'll pull the license. I think a whole lot of work does have to be done by the new commissioner to get to where the regulation should be."

Senator Lou Leon Guerrero stated the bill does contain a provision for the commissioner to establish rules and regulations in accordance with the Administrative Adjudication Act. She said: "I am very much interested in the insurance sector because of my oversight on health and the impacts of insurance on healthcare services and benefits. We're struggling as a community with malpractice insurance premiums and the cost of that, I would look to the Banking and Insurance Commissioner and the board to see if there is any way we can regulate that at a more reasonable cost to the community. This is not a complete answer to the voids that we have had in the past, however, it is a start. The authorities and powers given are flexible to get the work going. The person who is ultimately selected to fill the new position will certainly be busy. The issue that I like is that more attention will be afforded to these two important industries."

Senator Sanford stated that "in light of the fact that captive insurance is an area for potential growth –having a commissioner separate from the director would devote sufficient attention to this issue. On the banking side, the focus would be more on the non-regulated finance companies as banks fall under considerable scrutiny and are regulated under federal statutes and regulation. We've got to make sure this new commissioner pays attention to liquidity of these non-regulated finance companies to ensure solvency and safe investments. Trying to combine the two statutes has been challenging, however, we hope the substitute bill which includes a new board would provide the needed change."

Referring to page 26 of the bill which states "the commissioner shall not examine or cause to be examined any financial institution that is regulated by FDIC Board of Governors and Federal Reserve Bank Office of Control and Currency as long as that financial institution has received satisfactory rating," Speaker Pangelinan asked Mr. Butterfield would there be any other instance where even if it receives a satisfactory rating for these financial institutions that the commissioner may have an interest in examining it?

Mr. Butterfield affirmed – for example safety and soundness might not be the primary concern. Speaker Pangelinan asked whether it would be better to change that provision so as not to be prohibitive and substitute language ‘shall not be required’ instead of ‘shall not’? Mr. Butterfield agreed.

Speaker Pangelinan asked Mr. Butterfield to explain what summary examinations and reports may be required in respect of fiduciary activities that are subject to court accounting? Mr. Butterfield responded that would involve the Trust Department of a bank where it may or may not be determined necessary to do an examinations; this would be to protect the public’s interests. Speaker Pangelinan asked if only summary examinations were required, and does that go far enough or would there be other examinations that maybe should be required in terms of fiduciary activities? Mr. Butterfield stated probably not; he would leave it up to the discretion of the commissioner and the board.

In his written testimony, Mr. Artemio B. Ilagan, Director of the Department of Revenue and Taxation stated that he was in favor of Bill 119 for two reasons. First, the collection of taxes and the regulation of financial institutions each require the full time attention of a director or commissioner. Second, he agrees with the provisions concerning the minimum qualifications of a commissioner, and that the commissioner must be appointed by the Governor and confirmed by the Legislature.

Mr. Ilagan suggested several amendments. First, he proposed that the board and commissioner be authorized to contract for services required of a Certified Financial Examiner in good standing with the Society of Financial Examiners and an Actuary in good standing with the American Academy of Actuaries in the examination of insurance companies. Second, he noted that state commissioners have no jurisdiction over nationally chartered banks.

In his written testimony, Mr. Gerry Perez, Administrator of GEDCA made comments in support of the role the Banking and Insurance Commissioner would have in furthering the development of Guam’s economy.

There being no other testimony or questions, Senator Sanford declared Bill 119 as substituted by the author and further substituted by the Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions to have been publicly heard.

### III. COMMITTEE FINDINGS

The Committee on Economic Development, Retirement, Insurance, Public Works, and Regulatory Functions finds that several other suggestions provided by those testifying were appropriate and would improve the legislation and therefore has made the following cumulative changes to Section 2 of the version of Bill 119 as Substituted by the Author and originally publicly heard on June 11, 2003:

Section 1. Legislative findings and intent: minor changes

Section 2: Adds a new Chapter 103 to 11 GCA relative to the Office of Commissioner on Banking and Insurance:

- 103101 Adds ATM operators to definition of bank services  
Adds new item (b) identifying insurance organizations covered
- 103102 Deletes removal of Deputy Director  
Changes "having management responsibility" to "management level"  
under subparagraph (c), qualifications  
Adds "investment banking and securities" to qualifications  
Adds insurance experience to qualifications  
Adds "or territories" to qualifications  
Changes "would be" to "is" as part of powers  
Adds insurance oversight as part of powers
- 103103 Moved from 103106  
Board composition changed to 10 members with a quorum of six  
Adds "entities chartered as" to subparagraph (b) (1)  
Adds requirement that one board member must be from state bank  
Adds "officer" to subparagraph (b) (2)  
Adds "entity chartered as a," changes "which" to "whom" and specifies  
"classified" employee in subparagraph (b) (3)  
Initial appointments are staggered, three serve two years, three serve four  
years, three serve full six year terms  
Public notice per Open Gov't Law required for Board meetings  
Banking board ceases to exist 90 days from effective date of this act  
Adds new subparagraphs (k) and (l) regarding replacing Board members
- 103104 Moved from 103107  
Adds powers relative to insurance  
Requires Board to continuously review laws regulating banking and  
insurance and make recommendations for changes  
Adds provision to allow Board to contract Certified Financial Examiner  
and Actuary for examinations
- 103105 Orders amended based on Oregon code
- 103106 Moved from 103117  
Minor edits
- 103107 Moved from 103118
- 103108 Restrictive and questionable language removed
- 103109 Moved from 103103  
Bonding moved to 103111
- 103110 Moved from 103113  
Adds financial interest language from 103111  
Amends banking or insurance interest of officers and employees
- 103111 Moved from 103104  
Moves financial interest paragraph to 103110  
Adds bonding for employees as determined by Board from 103109  
Adds Board determination for commissioner's bonding

- 103112 Moved from 103114
- 103113 Moved from 103110  
Adds language to allow implementation of fees through AAA
- 103114 Moved from 103111  
Subsection rewritten for clarity  
Adds language to cover reporting on entities not covered in earlier subitem
- 103115 Moved from 103109  
Adds language to allow usage of portions of federal examinations in lieu of portions of local examinations; changes "shall not" to "need not" in reference to examinations  
Removes reference to nationally chartered bank  
Adds new item (g) specifying maximum period between examinations
- 103116 Moved from 103112  
Adds language to allow true copies to be used as originals in evidence pursuant to Guam law  
Adds provision to allow fees and regulations for record preservation to be adopted through AAA
- 103117 Moved from 103115  
Minor edits throughout subsection
- 103118 Moved from 103116  
Minor edits
- 103119 No changes

Four of the remaining six sections of the further substituted bill contain a number of changes as follows:

- Section 3. Amends 11GCA §100102 to add definition of "automated teller machine," modify definition of "bank" and add definition of "customer/bank communication terminal."  
Amends 11GCA §100103 relative to definitions of "Board," and "Commissioner."  
Amends 11GCA §106601 relative to branch banks.  
Adds a new Chapter 104 to Title 11GCA relative to Automated Teller Machine Entities, establishing regulations, setting penalties and specifying actions on Criminal Offender Record Information Requests.
- Section 4. Amends 14GCA §4107 (1) , §4108 (3), §4111 and §4203 (1), (2), (3), and (4) to change language to identify Commissioner on Banking and Insurance
- Section 5. Amends §21105 of Chapter 21 of Title 16 GCA to change language to identify Commissioner on Banking and Insurance
- Section 6. Amends (l) and adds new (ff), (gg), and (hh) to §12104 of Article 1, Chapter 12, Division 2 of Title 22 GCA to change language to identify Commissioner on Banking and Insurance

Amends §15704.1 and §15704.2 (g) and (h) of Article 7, Chapter 15, Division 2 of Title 22 GCA to change language to identify Commissioner on Banking and Insurance

Amends §15803 and §15804 of Article 8, Chapter 15, Division 2 of Title 22 GCA to change language to identify Commissioner on Banking and Insurance

Amends §23101 and §23120 of Chapter 23, Division 2 of Title 22 GCA to change language to identify Commissioner on Banking and Insurance

Section 7. Repeals Article 2 of Chapter 12 of Title 22 GCA relative to the Insurance Commissioner

Section 8. Severability clause

#### IV. COMMITTEE RECOMMENDATIONS

The Committee on Economic Development, Retirement, Investments, Public Works, and Regulatory Functions recommends that Bill No. 119, as substituted by the author and further substituted by the Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions be amended as indicated in Section III. above, and further recommends that Bill No. 119, as Substituted by the Author and Further Substituted by the Committee on Economic Development, Retirement, Investments, Public Works, and Regulatory Functions, "AN ACT TO REPEAL AND REENACT CHAPTER 103 OF TITLE 11 OF THE GUAM CODE ANNOTATED AND TO REPEAL CHAPTER 12 OF DIVISION 2 OF TITLE 22 OF THE GUAM CODE ANNOTATED, RELATIVE TO CREATING THE OFFICE OF COMMISSIONER ON BANKING AND INSURANCE WITHIN THE DIVISION OF INSURANCE, SECURITIES AND BANKING OF THE DEPARTMENT OF REVENUE AND TAXATION," be reported out with the recommendation to do pass.

#### V. PREVIOUS HEARING

[NOTE: The Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions conducted an earlier public hearing on Bill 119 as Substituted by the Author, on June 11, 2003, in the Legislative Public Hearing Room, *I Liheslaturan Guahan*, in Hagatna. A summary of testimony and the committee's findings and recommendations from that hearing are included below.]

##### **June 11, 2003 Summary of Testimony**

Mr. Brion Kanda, Chair of the Insurance Association of Guam, a professional organization made up of non-life insurance companies, agents and brokers that engage in the business of insurance on Guam. He stated that his organization wholeheartedly supports the proposal to create a new office of insurance and banking commissioner along with the proposal to establish a combined commission for the regulation of insurance and banking business. The business of insurance on Guam according to the last commissioner's annual report for the year 2001, generated more than \$326 million in premium sales. During the same period of time the year 2001, according to Guam Business Magazine's Business Almanac, the estimated Gross Island Product for the island of Guam was just shy



of \$3 billion dollars, making Guam's insurance industry a contributor of nearly 11 percent of the island's Gross Island Product.

Mr. Kanda said that the business of insurance is a regulated industry, and the regulatory functions are provided by a branch of the Dept of Revenue and Taxation – the Securities, Insurance, Banking, and Real Estate Branch. Given the size of the industry, given the numbers of citizens and residents of Guam that participate in the insurance industry and the given the high level of regulatory functions that the Dept of Revenue and Taxation are obliged to conduct on our business, he said it did not make sense that such an important facet of the economy be combined with the functions of the other four professions because combining of regulatory functions can often cause the insurance industry to get a short shrift.

Mr. Kanda said that it was not unusual for a simple filing of an insurance form to take 30 to 45 days to receive approval. There are a number of statutory mandates that have not been implemented because of lack of resources given to Rev and Tax to implement these mandates. He said that the creation of and separate funding of an office of banking and insurance commissioner would help to address a lot of these deficiencies and should be given a lot of attention because the insurance industry has changed quite dramatically in the 40 or 50 years since this regulatory mechanism was set up.

Mr. Kanda said that some changes must be made in insurance statutes and regulations to modernize them, to bring them up to standards that are present throughout the region if not the entire world. Some local laws and regulations are antiquated, if not obsolete, and the establishment of a separate regulatory office for insurance would help achieve these goals.

Larry Butterfield, president of Citizens Security Bank and President of the Guam Banker's Association, expressed his general support of the concept of a division of Banking and Insurance– but believes the emphasis of the bill and of the division should be on risk and addressing those areas where risks exist to the general public interest. Territorial banks, state banks and national banks are currently regulated by the FDIC, by the Office of Comptroller of Currency, or the Office of Thrifts Supervision; and are examined and regularly supervised by those agencies. In addition, those organizations that have a holding company like Citizens Security Bank, also are regulated by the Federal Reserve Board. Lenders have plenty of regulation and are examined annually by professional examiners.

In contrast, he said, there are finance companies operating in Guam that are not examined, not regulated, or supervised by anyone. They make loans, they sell millions of dollars in deposits they call them debentures or capital notes. Mr. Butterfield said that no one knows anything about their financial condition and they compete with banks for deposits, they sell these notes to the general public that have no knowledge and so, that is a risk that should be covered by this department.

Mr. Butterfield said that he believed that the definition of banking should be expanded to include finance companies and credit unions. Credit unions make loans, they accept deposits, just like banks and in fact, Guam has one large credit union that is larger than some of the banks that are here.

He pointed out that in many states, pawn shops are included, as are payday loan companies and check cashing companies because those present risks. He noted that a recent ad in the newspaper advertised for money secured at 8 percent; with the collateral mortgaged on real property in Guam. The value of that real property was not indicated, but it is high by market standards indicating that there is probably quite a bit of risk.

He said he supports the concept and believe those entities – whether banks, finance companies or insurance companies that are not currently examined on an annual basis should be. Those that are currently examined by competent federal examiners should be last on the list.

Ed Untalan, appearing on behalf of GEDCA administrator Gerry Perez submitted written testimony and orally presented highlights. He said GEDCA is in favor of this legislation not specifically focusing on the banking and securities section, but more so as it works towards assisting the Guam Captive Insurance Association and promoting that industry.

Mr. Untalan recommended taking advantage of this opportunity to amend the legislation to include captive insurance companies. He also recommended to including protective sell legislation and rent-a-captives. He said that rent-a-captives legislation is a niche that the Caymans and Bermuda and all the big domiciles have already developed and are now entering into the Asian market. He also noted that a lot of the promotions in Japan have come back with the request to see protective sale legislation established.

He noted that GEDCA's efforts with the Guam Captive Insurance Association is beginning to show some interest, but more so on the protective sales side of the rent-a-captives. GEDCA prepared proposed amendments and submitted them to the committee for consideration. GEDCA has worked closely with the Dept of Revenue and Taxation, everyone wants to see a separate insurance commissioner.

Artemio Ilagan, Director of the Department of Revenue and Taxation, stated that he was in support of bill 119. He began by explaining the present set-up of Rev and Tax: the Director is appointed by the governor and confirmed by the Legislature; a Deputy Director is appointed by the governor; and a Deputy Tax Commissioner is a classified employee. These are the top three managers of the department.

As an employee of the Department for 23 years, Mr. Ilagan said that on the tax side of the department programs are in place for training and hiring employees and the requirements are very strict as to who can come in as an auditor or a collector; the requirements are very stringent to get in. On the insurance and banking side, there are six employees; two have degrees and the rest are learning as they work. The employees need training to be efficient in their jobs.

He said the bill is a step in the right direction. It shows that there are qualifications for a person to sit in this position and it outlines the duties he is to perform. In the past, the Deputy Director was just an appointment by the governor and his duties were not defined so he could do whatever he wanted within the department and it may not be something with the insurance or banking side.

Speaker Pangelinan asked Mr. Ilagan where the Banking and Insurance commissioner would be housed. Mr. Ilagan responded that he would still be housed within Rev and Tax, but his duties and his qualifications will be defined and he would have to pass legislative confirmation. He went on to say that it would be very inefficient to open up another department. There are 47 financial institutions out there and 201 insurance companies out there, as opposed to the tax side – everybody files tax and everybody is required to file by Guam Territorial Income Tax laws, so there is a big difference between enforcing a tax law and enforcing or trying to regulate insurance and banking.

Senator Muña Barnes said that having a separate banking and insurance commissioner would relieve the director in his responsibilities and give him more freedom to concentrate collecting taxes and what is owed. Her primary concern was how this position would be funded.

Senator Sanford – reiterated she hoped the purpose of the bill is a step in the right direction and assured those testifying that all of their appropriate concerns would be incorporated.

The Chamber of Commerce provided a written statement signed by Vice Chairman of the Board Stephen C. Ruder, but did not testify orally. Their testimony was in general support of the intent of Bill 119 and made several recommendations for amendments, including providing specific job description and qualifications for the position of Commissioner; clearly defining the term “Insurance Company;” making allowances for FDIC insured institutions; and for an expansion of the securities section.

Senator Sanford declared Bill 119 publicly heard and adjourned the Public Hearing.

#### **June 11, 2003 Committee Findings**

The Committee on Economic Development, Retirement, Insurance, Public Works, and Regulatory Functions finds that several other suggestions provided by those testifying were appropriate and would improve the legislation and therefore has made the following changes:

- Added “Legislative Findings and Intent;”
- Included, when referring to banks and banking, “savings and loans, finance companies, mortgage brokers, credit unions, pawnshops, check cashing companies, foreign exchange companies, and the like, including any businesses that make loans, accept deposits, sell notes, corporate paper, debentures or similar instruments, or transmit funds;”
- Clarifies that the Commissioner replaces the Deputy Director and the Director acts as an ex-officio Commissioner in the absence of the Commissioner;
- Requires that the Commissioner have certain minimum qualifications;
- Extends Commissioner’s authority to non-banking entities as defined;
- Allows removal of a Board member for failure to attend two consecutive official meetings;
- Requires Board to: “regulate its own procedure and practice” and issue regulations according to the provisions of the Administrative Adjudication Act, removing specific rules and procedures originally specified in §103107 (a) (2);


- Empowers Board to “establish such rules and regulations in accordance with the Administrative Adjudication Act as may be necessary for the operation and management of savings banks and non-bank entities;”
- Prevents Commissioner from examining banks already examined by FDIC or similar organization and given satisfactory ratings, and
- Eliminates “§12207. Records” which was inadvertently and incorrectly left in the final edit of the substitute bill.


Subsequent to the Public Hearing, The Committee received additional testimony from Mr. Kanda expressing concern with §103119 (a), which he felt might make meetings of the Insurance Association of Guam illegal. The Committee finds that §103119 of Bill 119 is taken directly from §12213 of Title 22 GCA, the existing Insurance Commissioner statutes and no amendment is necessary.

Recommendations that the language be modified to address concerns with the captive insurance industry were tabled to be acted upon in separate legislation concerning captive insurance.



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 Message has been forwarded in the past.

**Date:** Fri, 19 Mar 2004 14:47:35 -0800

**From:** Becky Lujan <beckyl@ite.net>  
[ [Add to Address Book](#) | [Block Address](#) | [Report as Spam](#) ]

**To:** Bill Phillips <phillips-guam@excite.com>

**Cc:** Senator <tonis@ite.net>

**Subject:** FW:

Hey Gang,

Electronic Copy of JMarati's ATM amendment - this is exactly like Banking Association's proposal except it includes a requirement for surety bond for applicants and definition of ATMS.

becky

-----Original Message-----

From: Jackie Marati [mailto:jamarati@bankofguam.com]

Sent: Thursday, March 18, 2004 3:46 PM

To: Becky Lujan

Subject: Re:

Hi Becky:

Let me know if you need anything more.

Regards.

Jackie

Becky Lujan wrote:

>March 19, 2004

>

>Dear Jackie,

>

>Could you send us an electronic copy of the draft ATM bill we received on  
>February 27th from the Bank of Guam? This was an updated version of the  
>original draft you had sent the day before and it included a requirement  
for

>a surety for applicants.

>

>Many thanks.

>

>becky lujan

>office of senator toni sanford

>

>

>

Attachment: [GuamATMBill ACAClean1 Feb25-2.doc](#) (39 KB) [ [Download](#) ]



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

SECTION 1. A new Section \_\_\_\_\_ is added to the \_\_\_\_\_.

Section \_\_\_\_\_. AUTOMATED TELLER MACHINE ENTITIES

#### CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

1000. For the purposes of this Section, the following definitions shall apply:

(a) "Department" means the Department of Revenue and Taxation.

(b) "Entity" means and includes individuals, organizations, businesses and other persons acquiring, deploying, operating or maintaining one or more automated teller machines, or which permit one or more automated teller machines to be deployed, operated or maintained on premises controlled by it. "Entity" shall not include banks regulated under Title 11 of the Guam Annotated Code.

(c) Automated teller machine shall mean and include:

(1) A customer:bank communication terminal ("CBCT") as defined in 11

G.C.A. §106601(c);

(2) Any other electronic terminal or device either manned or unmanned which may be activated through an accepted card or other means of access to an account at a financial institution, as such terms are defined in 15 U.S. Code § 1693a of the Electronic Funds Transfer Act; or

(3) Any other electronic terminal or device either manned or unmanned which may be activated by the use of a credit card for the purpose of obtaining credit from the card issuer, as such terms are defined in 15 U.S. Code § 1602 of the Truth in Lending Act, other than a device provided and



maintained by the card issuer or under its authority. A device shall not be deemed maintained or provided under authority of the card issuer merely by reason of the fact that credit may be obtained electronically through the device.

## CHAPTER 2. REGULATION

1010. (a) Every entity shall obtain a license issued by the department for each automated teller machine owned, operated, maintained or deployed.

(b) The review and approval process for a license under this section shall be conducted by the Guam Banking Board.

(c) The department may license an entity if all of the following are provided to the department and presented to the Banking Board pursuant to subsection (b):

(1) The entity submits a comprehensive financial review of its finances as may be required by the Banking Board.

(2) The entity submits a financial review, as may be required by the Banking Board, of all shareholders holding more than 5% of the outstanding shares, whether voting or non-voting, of each class of common or preferred stock of the entity, all officers, all partners and any agents of the entity, and the entities business tax returns, statements of net worth and liabilities, and proof of ability to support any liabilities to be incurred.

(3) The entity validates, as the case may be, the identification of all shareholders holding more than 5% of the outstanding shares, whether voting or non-voting, of the common or preferred stock of the entity, all officers, and all partners and any agents of the entity. Validation shall include all of the following:

(A) Name to social security number matches.

(B) Criminal record checks.

(C) Residency verification.

(D) A check against a list provided by the Office of Foreign Assets

Control in the United States Department of Treasury.

(E) Business records check.

(4) The entity submits a review of its current and previous foreign and domestic acquirer business relationships.

(5) The entity demonstrates that comprehensive and verifiable terminal inventory procedures and controls are established and implemented that identify the location of any and all terminals, whether initially installed at a location or subsequently relocated.

(6) The entity submits a review of the soundness of its general business and operating practices with respect to its ability to manage the risks inherent in its business, including demonstrating its knowledge of the parties with which it contracts, demonstrating adequate operating reporting practices, and demonstrating adequate record keeping,

(7) The entity submits information as to the proposed place of operation or deployment of the automated teller machine, and

(8) The entity shall furnish such other information as the Banking Board may require in evaluating the application for a license.

(d) The fee to be paid by an entity applying for licensure by the department shall be no less than the fee paid by banks operating automated teller machines on Guam. The fee and all fees related to the licensing of automated teller machines shall cover the costs to the department for licensing the entity.

(c) Any entity issued a license under this chapter other than an entity which is a financial institution the deposits of which are insured by an agency or instrumentality of the United States of America, shall as a condition to such license furnish to and maintain with the Director of Revenue & Taxation a surety bond, or cash deposit, in the amount of \$1,000,000.00 as security for all claims or demands that may be asserted and sustained against the entity holding the license and related in any way to an automated teller machine licensed to such entity, including but not limited to improper use of information derived from any transactions processed using an automated teller machine licensed to such entity.

1011. (a) Upon issuing a license to an entity for an automated teller machine, the department shall provide the entity with a seal for the automated teller machine covered by the license.

(b) An entity shall place the seal specified in subdivision (a) on each automated teller machine it operates.

(c) Each license shall be renewed annually and the department shall establish a renewal fee that covers the department's costs which fee shall be no less than the fee paid by banks operating automated teller machines on Guam.

### CHAPTER 3. PENALTIES

1020. It shall be a misdemeanor punishable by a fine of not more than twenty-five thousand dollars (\$25,000) if any entity does any of the following:

(a) Conducts business in Guam without being licensed pursuant to this division.

(b) Operates an automated teller machine without a seal as required by Section 1011.

(c) All penalties, fines and licensing fees collected under this Section and from all licensing fees paid by all banks in Guam for the operation of an automated teller machine or customer-bank communication terminal shall be set aside in a separate fund to be utilized by the department to enforce the provisions of this Section.

#### CHAPTER 4. CRIMINAL OFFENDER RECORD INFORMATION REQUESTS

1030. ( a) The department may submit fingerprint images and related information to the Department of Justice with respect to the license application of an individual defined under Section 1000 as an entity, for the purpose of obtaining information as to the existence and nature of a record of state and federal convictions and arrests for which the Department of Justice establishes that the individual was released on bail or on his or her own recognizance pending trial.

(b) Requests from the department for federal criminal offender record information received by the Department of Justice pursuant to this section shall be forwarded by the Department of Justice to the Federal Bureau of Investigation.



First Hawaiian Bank  
 Guam & CNMI Region  
 400 Route 8  
 Mongmong, Guam 96910

John K. Lee  
 Senior Vice President  
 Guam & CNMI Region Supervisor

OFFICE OF SENATOR  
 ANTOINETTE (TONI) SANFORD

~~3680~~ 3680

MAR 08 2004

TIME: 3:59 AM (PM)  
 RECD BY: *du*

March 8, 2004

**VIA HAND DELIVERY**

Senator Antoinette D. Sanford  
 Assistant Majority Leader  
 Chairwoman, Committee on  
 Economic Development, Retirement,  
 Investments, Public Works and  
 Regulatory Functions  
 TWENTY-SEVENTH GUAM LEGISLATURE  
 Hagåtña, Guam 96910

**RE: BILL NO. 119 (COR)  
 AS SUBSTITUTED BY THE AUTHOR AND  
 FURTHER SUBSTITUTED BY THE  
 COMMITTEE ON ECONOMIC DEVELOPMENT  
 RETIREMENT, INVESTMENTS, PUBLIC  
 WORKS AND REGULATORY FUNCTIONS  
 AMENDMENT OF §106601 OF TITLE 11 OF  
 THE GUAM CODE ANNOTATED**

Dear Madam Chairwoman:

On behalf of First Hawaiian Bank ("First Hawaiian"), please accept our comments with respect to the above-referenced bill.

First Hawaiian is in support of the intent of this bill which is to establish an office of an insurance and banking commissioner. Over the years, the insurance and banking industries in Guam have become more sophisticated and complex. As we all know, the Department of Revenue and Taxation, which currently regulates insurance and banking matters, also regulates a myriad of other activities, such as real estate brokering, taxation, securities, motor vehicles, weights and measures, alcohol

Senator Antoinette D. Sanford  
March 8, 2004

beverage control, and other functions. The Director of the Department of Revenue and Taxation is responsible for ensuring that the laws governing all of these areas are enforced and for responding to inquiries from those regulated in all of these industries. To put it bluntly, the Director of the Department of Revenue and Taxation has more responsibilities than a single individual can handle.

Our one suggestion with respect to this bill is that you might consider adding securities and possibly real estate regulation to the functions of the insurance and banking commissioner. Insurance and securities products are sometimes closely related and intertwined, and having both regulated by the same department or division would enhance regulatory functions and service to these industries.

Another thought we have is that instead of putting the office of the Insurance and Banking Commissioner within the division of the Department of Revenue and Taxation, some thought might be given to establishing a new department headed by the insurance and banking commissioner. This would result in the Department of Revenue and Taxation being split into two entities. The Department of Revenue and Taxation could remain exactly the same and would continue to have oversight and regulatory supervision over taxation (a huge job in and of itself), business licensing, alcoholic beverage control, weights and measures, and motor vehicles. The insurance and banking commissioner could be given oversight over insurance, banking, securities, and real estate.

While this proposal would appear to go against the grain of reorganizing the government by reducing the number of departments, in practical fact, we do not believe this would be the case. The Department of Revenue and Taxation is already broken down into numerous branches or divisions, each of which operates independently for most purposes. This division of the existing Department of Revenue and Taxation seems to make perfect sense and should not create an unacceptable added expense to the government.

Senator Antoinette D. Sanford  
March 8, 2004

We thank you for allowing us to comment on this bill. Should you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "John K. Lee". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

**JOHN K. LEE**



**TAKAGI & ASSOCIATES, INC.**  
*Professional Insurance Consultants*

March 5, 2004

OFFICE OF SENATOR  
 ANTOINETTE (TOM) SANFORD

3682  
 MAR 5 2004

Senator Antoinette D. Sanford  
 Assistant Majority Leader  
 Twenty Seventh Guam Legislature  
 Suite 15A, Sinajana Mall  
 777 Route 4  
 Sinajana, GU 96910

TIME: \_\_\_\_\_ AM ( ) PM ( )  
 RECD BY: AD

Subject: Bill 119 (COR) – AN ACT TO REPEAL AND REENACT  
 CHAPTER 103 OF TITLE 11 OF THE GUAM CODE  
 ANNOTATED AND TO REPEAL CHAPTER 12 OF  
 DIVISION 2 OF TITLE 22 OF THE GUAM CODE  
 ANNOTATED, RELATIVE TO CREATING THE  
 OFFICE OF COMMISSIONER ON BANKING AND  
 INSURANCE WITHIN THE DIVISION OF  
 INSURANCE, SECURITIES AND BANKING OF THE  
 DEPARTMENT OF REVENUE AND TAXATION.

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[taaspn@saipan.com](mailto:taaspn@saipan.com)

Dear Senator Sanford,

Our Company, Takagi & Associates, Inc., is a Guam corporation that is exclusively engaged in the business of insurance. This year marks the thirteenth year of our incorporation on Guam. Our Company is staffed by career insurance professionals. Our officers and managers have a minimum of seven years of insurance experience on Guam. Our President, George Takagi, has 37 years of insurance experience on Guam.

Thank you for introducing and supporting the captioned Bill 119.

We definitely support the concept espoused by this Bill.

The business of insurance is one of the larger commercial sectors on Guam. The Business Almanac of Guam and the Northern Marianas for 2003, published by Glimpses of Guam, Inc., provides this interesting insight:



Senator Antoinette D. Sanford  
March 5, 2004  
Page 2

*In 2001, the last year for which reliable data is available:*

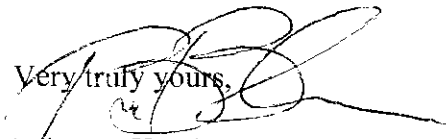
- ◆ *The (total) Gross Business Receipts for Guam was \$3,687,200,000.*
- ◆ *Insurance Premiums totaled \$241,000,000.*
- ◆ *Hotel Room Receipts totaled \$194,800,000*

The data indicates that the business of insurance represented 6.6% of the total Gross Business Receipts of our entire economy in 2001. The total of the insurance premiums collected on Guam was nearly 24% more than the receipts generated by the entire hotel industry during that year.

A major difference between these two industries is that the business of insurance is regulated by the Insurance Commissioner of Guam. Presently, our law prescribes that it is the Director of the Department of Revenue and Taxation that, simultaneously, holds the office of by the Insurance Commissioner of Guam. This is *in addition* to his duties as the collector of taxes, director of the motor vehicles registration and licensing division, Banking Commissioner, Real Estate Commissioner, etcetera, etcetera, etcetera.

Given the size and the complexity of the insurance business, it seems logical that a more focused approach be given to the regulatory interests of our business. Thus, we strongly support the concept proposed by Bill 119 (COR).

Very truly yours,



Bfion B. Kanda  
Vice President



Dipattamenton Kon. usion yan Adu'ana

DEPARTMENT OF

# REVENUE AND TAXATION

GOVERNMENT OF GUAM

Gubetnamenton Guahan

FELIX P. CAMACHO, Governor Maga'lahi  
KALEO S. MOYLAN, Lt. Governor Tiñente Gubetnadot

ARTEMIO B. ILAGAN, Director  
Direktot  
JOHN P. CAMACHO, Deputy Director  
Segundo Direktot

08 MAR 2004

The Honorable Toni Sanford  
Chair, Committee on Economic Development, Retirement  
Investments, Public Works and Regulatory Functions  
Twenty-Seventh Guam Legislature  
Hagatna, Guam 96910

Re: Bill No. 119 "AN ACT TO REPEAL AND REENACT CHAPTER 103 OF TITLE 11 OF THE GUAM CODE ANNOTATED AND TO REPEAL CHAPTER 12 OF DIVISION 2 OF TITLE 22 OF THE GUAM CODE ANNOTATED RELATIVE TO CREATING THE OFFICE OF THE COMMISSIONER ON BANKING AND INSURANCE WITHIN THE DIVISION OF INSURANCE, SECURITIES AND BANKING OF THE DEPARTMENT OF REVENUE AND TAXATION."

Dear Madam Chairman:

I am in favor of Bill 119 for the following reasons:

1. The collection of taxes requires the full attention of the Director. Similarly, the regulation of financial institutions requires the attention of a full time Commissioner.
2. The Commissioner must possess minimum qualifications including management positions either in banking, insurance or other fields. In addition, the Commissioner must be appointed by the Governor and confirmed by this Legislature.

However, I must bring to the attention of this Committee that certain provisions of Bill 119 can be further clarified.

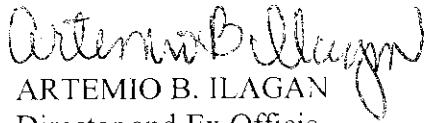
1. Section 103101 (a) refers to banks and banking including corporate paper, debentures or similar instruments. It is our understanding that corporate paper, debentures or similar instruments are included in the definition of securities under the Uniform Securities Act. However, Bill 119 does not specifically refer to securities. If the Committee does not intend to include the regulation of securities by the Commissioner, then this Section is fine.
2. Section 103104 (a)(4) refers to the powers of Board and Commissioner relative to insurance. Currently, Guam does not have Certified Financial Examiners (CFE) duly accredited with the Society of Financial Examiners (SOFE) as required by the National Association of Insurance Examiners (NAIC) to be examiner-in-charge in the examination of insurance companies. Also Guam does not have an actuary who is a member in good standing with the American Academy of Actuaries (AAA) to certify to the reserves for losses as stated in the financial statements of

insurance companies. I respectfully propose that the Board and Commissioner be also authorized to enter into a contract for the services required of a CFE in good standing with SOFE and an actuary in good standing with AAA, in the examination of insurance companies.

3. Section 103115 (f) refers to the examination of each state and nationally chartered bank by the Commissioner. It is the position of the Office of the Controller of Currency (OCC) any national bank are exclusively chartered and regulated by the OCC and that state Commissioners have no jurisdiction over nationally chartered banks.

I reiterate that I am in favor of Bill 119.

Sincerely,



ARTEMIO B. ILAGAN  
Director and Ex Officio  
Banking & Insurance Commissioner

Aturidad Inadilanton

**Governor**  
Felix R. Camacho



Ikunumihan Guahan

**Lieutenant Governor**  
Alejo S. Moylan

March 8, 2004

Senator Toni Sanford  
27<sup>th</sup> Guam Legislature  
Hagatña, Guam 96910

Re: Testimony on Bill #119

Dear Senator Sanford,

Thank you for allowing me the opportunity to provide comment on Bill #119, which will amend the current insurance statute to establish a separate Insurance & Banking Commissioner within the government of Guam. On behalf of the Authority, please allow me to stress the positive impact the Bill will have on the island's insurance and banking industries.

Over the past seven years, GEDA has invested significantly in the promotion of Guam as a captive domicile in many different arenas. Specifically, GEDA has presented Guam regionally at the Australasian Risk & Insurance Manager's Association (ARIMA) forums in Australia, the Alternative Risk Transfer (ART) Conferences in Singapore, the Hawaii Captive Forum and at the U.S. Based Risk & Insurance Manager Society (RIMS) conference (the largest industry forum).

Alternative Risk Transfer (ART) tools are becoming a more viable option not only for private, but public sectors alike. The recent passing of Bill #156, which made Protected Cell Captives a part of Guam's offering, and the covering of Guam risk a reality, means Guam may realize modern, technically advanced insurance (financial services) products in the future.

Establishing a separate Insurance & Banking Commissioner would be a step in the right direction in terms of developing technical depth and core competencies in the regulation and oversight of the insurance & banking industry. This change would align Guam's structure to other worldwide competitor domiciles that separate industry regulators from tax collection divisions within the same department. For example, competitor domiciles' Commissioners or Regulators (Caymans, Bermuda, Hong Kong, Singapore) remain separate from their respective country's general governmental operations.

Guam USA ~ The Ultimate Destination

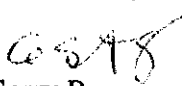
The criteria for selecting the Guam Commissioner, as described in §103102, initially ensures that the commissioner also provide expertise to Guam's (GEDCA's) marketing effort.

Likewise, the Banking and Insurance Board described in §103103, if established, will ensure that key input is obtained from industry stakeholders. Such stakeholder participation would allow for more timely reviews of relative applications for Guam licensure, and provide current market feedback to Government regulators and policymakers.

Lastly, as §103113 describes "Fees to defray expenses of Division", it is GEDCA's hope that any revenues generated from the Commissioner's endeavors be deposited into its own account within the General Fund, so as to become a self sufficient body within the Department of Revenue & Taxation.

Thank you for the opportunity to lend support for Bill # 119. If you have any questions or comments on this testimony, please do not hesitate to let me know.

Respectfully Submitted,

  
Gerry Perez  
Administrator

**BILL NO.**

119 (COR)

As Substituted by the Author and further  
Substituted by the Committee on Economic  
Development, Retirement, Investments,  
Public Works and Regulatory Functions

Hearing date: 3/8/04

Committee Referred: COED

Prepared by: Bill

**AUTHOR:**

Toni Sanford

**MAIN SPONSORS:**

None

**TITLE:**

AN ACT TO REPEAL AND REENACT CHAPTER 103 OF TITLE 11 OF THE GUAM CODE ANNOTATED AND TO REPEAL CHAPTER 12 OF DIVISION 2 OF TITLE 22 OF THE GUAM CODE ANNOTATED, RELATIVE TO CREATING THE OFFICE OF COMMISSIONER ON BANKING AND INSURANCE WITHIN THE DIVISION OF INSURANCE, SECURITIES AND BANKING OF THE DEPARTMENT OF REVENUE AND TAXATION.

*[NOTE: This bill has been materially revised from the original publicly heard on June 11, 2003. The last page contains a very brief synopsis of changes and how subsections were shifted into a more logical order.]*

**INTENT:**

Removes the functions of Banking Commissioner and Insurance Commissioner from the duties of the Director of Revenue and Taxation. Creates position known as the Banking and Insurance Commissioner within Rev & Tax.

**SECTION BY SECTION**

**Section 1. Legislative Findings and Intent:**

Finds that Guam is one of few jurisdictions that do not have a Commissioner on Banking and Insurance or equivalent. Responsibility overseeing collection of taxes and fees, the auditing and enforcement of Guam's tax codes, and directing other functions of Rev & Tax require full-time attention of Director, therefore Legislature intends to relieve Director of oversight of banking and insurance industries by creating position of Commissioner on Banking and Insurance within the Department of Revenue and Taxation.

**Section 2. repeals and reenacts Chapter 103 of Title 11 GCA**

Creates the Office of Commissioner on Banking and Insurance within the Division of Insurance, Securities and Banking of Rev & Tax.

**§103101. Establishment.** Establishes Office of Commissioner on Banking and Insurance in Division of Insurance, Securities and Banking of Rev & Tax. Defines what constitutes a bank: *“references to banks and banking shall include, where applicable, savings and loans, finance companies, mortgage brokers, credit unions, pawnshops, check cashing companies, foreign exchange companies and the like, including any businesses that make loans, accept deposits, sell notes, corporate paper, debentures or similar instruments, operate Automated Teller Machine (ATM) services, or transmit funds.”*

**§103102. Banking and Insurance Commissioner.** Creates position appointed by Governor, confirmed by Legislature, serves under direction of Director of Rev & Tax. Salary is equivalent of Director. Specifies qualifications for position of Commissioner. Specifies powers of commissioner. Deputy Director is NOT eliminated as in original bill.

**§103103. Banking and Insurance Board.** Board consists of ten members including Commissioner who is Chair, and replaces Banking Board. Banking Board ceases to exist when act becomes effective. Three members from banking community, three from insurance community, three from general public one of whom may be GovGuam employee are appointed by Governor with Legislative approval. Six members constitutes a quorum and six votes necessary for action. Serve six-year terms except original appointees of which three shall serve two year terms, three shall serve four year terms and three shall serve six year terms.

**§103104. Powers of Board and Commissioner.** Regulates procedure and practice. Implement provisions and rules not inconsistent with law under AAA. Specifies powers of Board relative to banking and insurance industries. Board must periodically review existing banking and insurance codes and make recommendations for change.

**§103105. Order of the Commissioner.** Findings, decisions and orders of Commissioner in writing are deemed orders. States what orders should contain. States how orders should be transmitted.

**§103106. Hearing.** Any person directly affected by order of the Commissioner may request hearing on matter.

**§103107. Enforcement of Orders.** Commissioner may apply for enforcement of order to Superior Court.

**§103108. Court Review.** Persons aggrieved by Board may appeal to Superior Court.

**§103109. Other Employees.** All employees except Commissioner are classified. Commissioner may delegate his powers to employees in division and may designate employee to perform his duties.

**§103110. Banking or Insurance Interests of Officers and Employees.** Employees of Division shall not work for or be shareholders in banks or insurance companies or receive directly or indirectly payment or gratuity. Employees may be account holders.

**§103111. Bond.** Commissioner and employees are prohibited from banking and insurance activities except as account or policy holders. Commissioner must be bonded in amount to be determined and approved by Governor but not less than \$10,000. Bonds are required for handling money or securities.

**§103112. Limitation of Personal Liability.** Members of Board and employees not liable in civil action for damages while performing job in good faith.

**§103113. Fees to Defray Expenses of Division.** Commissioner shall charge examination fees. Board may implement new or revised fees through AAA. Fees are to be paid directly to General Fund

**§103114. Commissioner's Annual Report.** Commissioner submits report annually 60 days after end of each fiscal year. Report to include text of all rules adopted since last report; recommendations for legislation; status of each bank; summary of changes since last report; conditions of every insurer, general condition of insurance business and interests in Guam.

**§103115. Examinations and Reports.** Commissioner shall examine condition of each bank once each year. Board determines need and frequency for examination and reporting of insurance companies. Results of Federal examinations or portions may be used in lieu of similar local exams or portions.



**§103116. Records of the Division.** Records confidential. Records shall be retained for five years. Copies on file with Commissioner may be certified as true copies by Commissioner and introduced in evidence pursuant to Guam law. Commissioner shall establish fees for copies of documents through AAA.

**§103117. Preservation of Records.** Banks and insurance companies shall retain business records for prescribed periods. Banks and insurance companies shall retain books and records required.

**§103118. Standards in Regulations.** Rules and regulations made shall be in best interests of maintaining sound banking and insurance systems, security of deposits, preservation of liquid position of banks and sound insurance system.

**§103119. Practices Injurious to Free Competition.** Controlling rates, commissions or compensation not allowed. Boycott, coercion, intimidation or monopoly not allowed.

**Section 3. Repeals Chapter 12 of Division 2 of title 22GCA.** Original Insurance Commissioner statutes now incorporated into this act.

**Section 4.** Indicates new references for Insurance Commissioner and Banking Commissioner

**Section 5 Severability clause**

## **COMMENTS**

This is a revised version of Bill 119 publicly heard last year on June 11. Combines some statutes regarding regulation of banking and insurance industries under one chapter within 11 GCA.

Having a Commissioner on Banking and Insurance will relieve the Director of these responsibilities and give him more freedom to concentrate on collecting taxes.

Most jurisdictions have separate banking and insurance commissioners, and nearly all have their own departments. Not practical in Guam because we are too small.

Earlier version eliminated deputy director, this bill does not. Is there a need for a deputy with these banking and insurance duties taken from the Director?

Will the deputy position remain after reorganization takes place.  
Not likely to find a qualified individual at the salary of director.

Existing Banking Board will be eliminated when act becomes law. Governor will need to make appointments quickly, or expiration date of Banking Board could be added for instance, in §103103 (j) it could read: "90 days following Upon the effective date of this act the Banking Board shall cease to exist and shall have no further authority to act."

**IMPACTED GROUPS**

Banks, Insurance Companies, all consumers

**ESTABLISHED POSITIONS**

Administration, banking association supports

**FUNDING SOURCE**

General Fund, fees

**FED APPROVALS/INVOLVEMENT**

Federal guidelines and laws concerning banking and insurance

**WHO ADMINISTERS**

Rev and Tax

**TYPE OF ISSUE**

Regulatory, Banking, Insurance

**NOTES ON CHANGES**  
**Between B-119 Substituted by Author**  
**and B-119 Further Substituted by Committee**

**SECTION 1**

No changes

**SECTION 2**

- 103101 Adds ATM operators to definition of bank services
- 103102 Deletes removal of Deputy Director  
Adds "investment banking and securities" to qualifications  
Adds insurance experience to qualifications  
Adds insurance oversight as part of powers
- 103103 Moved from 103106  
Board composition changed to 10 members with a quorum of six  
Initial appointments are staggered, three serve two years, three serve four years, three serve full six year terms  
Banking board ceases to exist on effective date of this act
- 103104 Moved from 103107  
Adds powers relative to insurance  
Requires Board to continuously review laws regulating banking and insurance and make recommendations for changes
- 103105 Orders amended based on Oregon code
- 103106 Moved from 103117  
Minor edits
- 103107 Moved from 103118
- 103108 Restrictive and questionable language removed
- 103109 Moved from 103103  
Bonding moved to 103111
- 103110 Moved from 103113  
Adds financial interest language from 103111

- 103111 Moved from 103104  
 Moves financial interest paragraph to 103110  
 Adds bonding for employees as determined by Board from 103109  
 Adds Board determination for commissioner's bonding
- 103112 Moved from 103114
- 103113 Moved from 103110  
 Adds language to allow implementation of fees through AAA
- 103114 Moved from 103111  
 Subsection rewritten for clarity
- 103115 Moved from 103109  
 Adds language to allow usage of portions of federal examinations in lieu of portions of local examinations
- 103116 Moved from 103112  
 Adds language to allow true copies to be used as originals in evidence pursuant to Guam law  
 Adds provision to allow fees and regulations for record preservation to be adopted through AAA
- 103117 Moved from 103115  
 Minor edits throughout subsection
- 103118 Moved from 103116  
 Minor edits
- 103119 No changes

**SECTION 3**

No changes

**SECTION 4**

Minor edits

**SECTION 5**

No changes