

**11 GCA FINANCE & TAXATION**  
**CH. 103 OFFICE OF COMMISSIONER OF BANKING AND INSURANCE**

**CHAPTER 103**  
**OFFICE OF COMMISSIONER OF BANKING AND INSURANCE**

- § 103101. Establishment.
- § 103102. Banking and Insurance Commissioner.
- § 103103. Banking and Insurance Board.
- § 103104. Powers of Board and Commissioner.
- § 103105. Order of the Commissioner.
- § 103106. Hearing.
- § 103107. Enforcement of Orders.
- § 103108. Court Review.
- § 103109. Other Employees.
- § 103110. Banking or Insurance Interests of Officers and Employees.
- § 103111. Bond.
- § 103112. Limitation of Personal Liability.
- § 103113. Fees to Defray Expenses of Division.
- § 103114. Commissioner's Annual Report.
- § 103115. Examinations and Reports.
- § 103116. Records of the Division.
- § 103117. Preservation of Records.
- § 103118. Standards in Regulations.
- § 103119. Practices Injurious to Free Competition.
- § 103120. Creation of the Banking and Insurance Enforcement Fund.

**SOURCE:** This Chapter was repealed and reenacted by P.L. 27-88:2 (May 6, 2004). Amended as indicated herein.

**§ 103101. Establishment.**

There is, within the Division of Insurance, Securities and Banking of the Department of Revenue and Taxation, an Office of the Commissioner of Banking and Insurance that shall be charged with supervising banking and insurance activities in Guam as provided in this Title, and in other legislation conferring jurisdiction upon the office.

(a) For the purposes of this Chapter and unless otherwise specified, all references to banks and banking shall include, where applicable, banks, savings and loans, finance companies, mortgage brokers, credit unions, pawnshops, check cashing companies, foreign exchange companies and the like, including any entities that make loans, accept deposits, sell notes, corporate paper, debentures or similar instruments, transmit funds, own or operate automated

**11 GCA FINANCE & TAXATION**  
**CH. 103 OFFICE OF COMMISSIONER OF BANKING AND INSURANCE**

teller machines ('ATMs') services, also known as 'customer/bank communication terminals' ('CBCTs'), 'electronic terminal devices', 'cash dispensing machines' and 'cash machines', or otherwise engage in any banking related activity.

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

**§ 103102. Banking and Insurance Commissioner.**

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

(a) The Commissioner shall be the primary regulator of Guam banking and insurance institutions, and shall have the authority expressly conferred by or reasonably implied from the provisions of this Chapter.

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

(c) The Commissioner *shall* have the following minimum qualifications; a total of ten (10) years of experience in a managerial position in any of the following areas:

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

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

(3) experience in a management or supervisory position within a government agency or other regulatory body with responsibility and authority for oversight, regulation and compliance activities of institutions and organizations in §

**11 GCA FINANCE & TAXATION**  
**CH. 103 OFFICE OF COMMISSIONER OF BANKING AND INSURANCE**

103102 (c) (1) and § 103102 (c) (2).

(d) The Commissioner shall perform all duties imposed upon him by the provisions of this Title, Title 17 GCA Chapter 50, and other laws regulating banking and insurance in Guam and shall enforce all such provisions and laws.

(e) The Commissioner's powers extend to any and all entities, whether or not the entity is a bank, or is partially-owned or controlled by a bank, to the extent that the entity engages in an activity that is permissible to banks pursuant to Section 106191 of Title 11 of the Guam Code Annotated. Any and all banks are subject to the powers of the Commissioner. The Commissioner shall have the power to require a bank subject to his powers to:

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

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

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

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

(5) Record liens and other interests in property.

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

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

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

(9) Maintain adequate insurance against such other risks as the Commissioner may determine to be necessary and appropriate for the protection of depositors and the public.

(f) The Commissioner's powers extend to any and all insurance entities, and he may examine, or cause to be examined, the books, papers, and property, and into the affairs of any insurer, broker,

**11 GCA FINANCE & TAXATION**  
**CH. 103 OFFICE OF COMMISSIONER OF BANKING AND INSURANCE**

agent, solicitor, or rating bureau, or any person engaged in organizing, promoting, or forming any insurer, as the Board considers proper to determine whether any person has violated any provision of this Title and other laws relating to the business of insurance, and generally he may make such examinations, conduct such inquiries, and hold such hearings as are specifically provided for in this Title or as are reasonably necessary for the proper discharge of his duties.

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

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

**SOURCE:** Added by P.L. 27-88 (May 6, 2004). Subsection (c) amended by P.L. 29-113:VI:40 (Sept. 30, 2008). Subsection (d) amended by P.L. 28-177:3 (Dec. 29, 2007).

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

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

(b) The nine (9) members shall be appointed by I Maga'lahi (the Governor) with the advice and consent of *I Liheslatura* (the Legislature), in conformance with the requirements of 4 GCA § 2105:

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

**11 GCA FINANCE & TAXATION**  
**CH. 103 OFFICE OF COMMISSIONER OF BANKING AND INSURANCE**

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

(3) There shall be three (3) members who are not directors, trustees, officers, employees or stockholders of any entity chartered as a bank, or any entity engaged in the insurance business, one (1) of whom must be an attorney admitted to practice law on Guam, and only one of whom shall be a classified employee of the government of Guam.

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

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

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

(2) four (4) members for a term of six (6) years. Thereafter, the term of office of each member shall be six (6) years.

(e) I Maga'lahi [The Governor] may, after notice and hearing, remove a member for cause. Failure to attend two (2) consecutive legally called Board meetings shall serve as sufficient cause for removal.

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

(g) No member shall participate in a proceeding before the Board to which any corporation, partnership or unincorporated association of which he or she is or was at any time in the preceding twelve (12) months a director, officer, partner, employee, member, or stockholder is a party. A member may disqualify himself or herself from participating in a proceeding for any other cause deemed by him or her to be sufficient.

(h) At any meeting at which a quorum is not present, whether by reason of the inability of a member to participate or his or her voluntary disqualification, or otherwise, I Maga'lahi may designate the Director, or the head of any other department of the government of Guam, in that

**11 GCA FINANCE & TAXATION**  
**CH. 103 OFFICE OF COMMISSIONER OF BANKING AND INSURANCE**

order, as acting members of the Board for the purpose of constituting a quorum, but he or she shall not designate more acting members than shall be necessary to constitute a quorum.

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

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

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

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

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

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

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

(3) Relative to banking, the Board may:

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

(ii) Authorize a territorial bank until the close of the next regular session of *I Liheslatura* to participate in a public agency hereafter created under the laws of Guam or of the United States, the purpose of which is to afford advantages or safeguards to banks or to depositors and to comply with all requirements and conditions imposed upon such participants;

**11 GCA FINANCE & TAXATION**  
**CH. 103 OFFICE OF COMMISSIONER OF BANKING AND INSURANCE**

and to engage in any banking activity in which banks subject to the jurisdiction of the Federal government may hereafter be authorized by Federal legislation to engage;

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

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

(4) Relative to insurance, the Board may:

(i) Enter into contracts for services with a Certified Financial Examiner in good standing with the Society of Financial Examiners and with an Actuary in good standing with the American Academy of Actuaries in the examination of insurance companies;

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

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

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

**11 GCA FINANCE & TAXATION**  
**CH. 103 OFFICE OF COMMISSIONER OF BANKING AND INSURANCE**

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

(b) The Board may remove a director, trustee, officer or employee of a territorial bank who becomes ineligible to hold his or her position or, who after receipt of an order to cease under the preceding Subsection, violates this Title or a lawful regulation or order issued thereunder or who is dishonest or who is reckless or grossly incompetent in the conduct of banking business. It shall be a criminal offense against this Title for any such person, after receipt of a removal order, to perform any duty or exercise any power of any territorial bank for a period of three (3) years. A removal order shall specify the grounds thereof and a copy of the order shall be sent to the bank concerned. The Board may recommend removal of a director, trustee, officer or employee of a national or state bank.

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

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

(e) The Commissioner and the Board shall have the power to subpoena witnesses, compel their attendance, require the production of evidence, administer an oath and examine any person under oath in connection with any subject relating to a duty imposed upon or a power vested in the Commissioner or the Board. These powers shall be enforced by the Superior Court of Guam. An individual who claims privilege against self-incrimination may nevertheless be compelled to testify, but he or she shall not be prosecuted or subjected to a penalty or forfeiture on account of anything concerning which he or she has testified under such compulsion, except for perjury committed in his or her testimony. Removal from an office or employment with a territorial bank or insurance company is not the imposition of a penalty or forfeiture.

(f) The Board may, on petition of any interested person and after hearing, issue a declaratory order with respect to the applicability to any

**11 GCA FINANCE & TAXATION**  
**CH. 103 OFFICE OF COMMISSIONER OF BANKING AND INSURANCE**

person, property or state of facts of this Title or a rule issued by the Board. The order shall bind the Board and all parties to proceeding on the state of facts alleged unless it is modified or reversed by a court having jurisdiction. A declaratory order may be reviewed and enforced in the same manner as other orders of the Board, but the refusal to issue a declaratory order shall not be reviewable.

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

(h) The Board shall continuously review the provisions of this Title and other laws regulating banking and insurance in Guam and may, from time to time, make recommendations for changes therein to I Maga'lahi and *I Liheslatura* in the Commissioner's Annual Report.

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

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

(b) Every such order shall state:

- (1) Its effective date;
- (2) Its intent or purpose;
- (3) The grounds on which it is based; and

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

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

**§ 103106. Hearing.**

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

**§ 103107. Enforcement of Orders.**

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

**§ 103108. Court Review.**

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

**§ 103109. Other Employees.**

All officers and employees of the Division of Insurance, Securities and Banking, other than the Commissioner, shall be in the classified service. The Commissioner may delegate to any officer or employee of the Division any of his or her powers and may designate any officer or employee of the Division to perform any of his or her duties.

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

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

**11 GCA FINANCE & TAXATION**  
**CH. 103 OFFICE OF COMMISSIONER OF BANKING AND INSURANCE**

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

**§ 103111. Bond.**

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

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

**§ 103112. Limitation of Personal Liability.**

No member of the Board or officer or employee of the Division shall be liable in any civil action for damages for any act done or omitted in good faith in performing the functions of his or her office.

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

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

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

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

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

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

**11 GCA FINANCE & TAXATION**  
**CH. 103 OFFICE OF COMMISSIONER OF BANKING AND INSURANCE**

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

(2) Recommendations for legislation.

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

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

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

**§ 103115. Examinations and Reports.**

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

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

(c) In the event that the Commissioner has not received a satisfactory or equivalent rating by a territorial bank's primary safety and soundness regulator for the most recent examination period, the Commissioner shall examine the condition of each territorial bank at least once in each calendar year and shall require each such organization to submit a report of its condition as of such dates as he or she may fix at least twice in each calendar year. Only summary examinations and

**11 GCA FINANCE & TAXATION**  
**CH. 103 OFFICE OF COMMISSIONER OF BANKING AND INSURANCE**

reports shall be required in respect of fiduciary activities that are subject to court accounting. A report of examination shall be sent to the organization examined.

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

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

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

(g) The Board shall determine the need and frequency for necessary reporting and for examination of insurance carriers, but shall require an examination no less often than once every five (5) years.

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

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

**11 GCA FINANCE & TAXATION**  
**CH. 103 OFFICE OF COMMISSIONER OF BANKING AND INSURANCE**

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

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

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

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

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

**§ 103117. Preservation of Records.**

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

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

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

**11 GCA FINANCE & TAXATION**  
**CH. 103 OFFICE OF COMMISSIONER OF BANKING AND INSURANCE**

(d) All other bank and insurance records shall be retained for such periods as the Board shall, from time to time, issue regulations classifying all records kept by territorial banks and insurance companies and prescribing the period for which records of each class shall be retained. Such periods may be permanent or for a lesser term of years. Such regulations, may from time to time, be amended or repealed. Prior to issuing any such regulation, the Board shall consider:

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

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

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

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

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

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

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

**§ 103118. Standards in Regulations.**

The Board and the Commissioner, in the exercise of the power to make rules and issue regulations pursuant to this Title, shall act in the interests of promoting and maintaining sound banking and insurance

**11 GCA FINANCE & TAXATION**  
**CH. 103 OFFICE OF COMMISSIONER OF BANKING AND INSURANCE**

systems, the security of deposits and depositors and other customers, the preservation of the liquid position of banks, the compliance with local law or regulation of any bank, and in the interest of preventing injurious credit expansions and contractions, and injury to the people of Guam.

**§ 103119. Practices Injurious to Free Competition.**

Except as otherwise expressly provided by law, no person directly or indirectly shall enter into any contract, understanding or combination with any insurer or manager, agent or representative thereof for the purpose of, nor shall any such persons or insurers jointly or severably do any act or engage in any practice for the purpose of:

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

(b) Entering into any agreement to commit, or individually or by any concerted action committing, any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

**§ 103120. Creation of the Banking and Insurance Enforcement Fund.**

There is hereby established, separate and apart from other funds of the government of Guam, a special fund known as the 'Banking and Insurance Enforcement Fund' (hereinafter the 'Fund'). The Fund shall not be commingled with the General Fund or any other fund of the government of Guam. The Fund shall be held in an account or accounts at a Guam financial institution or institutions separate and apart from all other accounts and funds of the government of Guam. The Fund shall not be subject to I Maga'lahi's transfer authority. The Fund shall be used for enforcement within the purview of the Office of Commissioner of Banking and Insurance, and the Banking and Insurance Board, subject to appropriations.

-----