

**22 GCA BUSINESS REGULATIONS
CH. 15 BUSINESS OF INSURANCE**

**CHAPTER 15
BUSINESS OF INSURANCE**

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§ 15101. Authority of Insurer.

A person shall not transact insurance in Guam as an insurer without being admitted, and when admitted, shall not transact any class of insurance which is not specifically authorized by his certificate.

SOURCE: GC § 43100.

§ 15102. Certificate of Authority.

Admission is secured by procuring a Certificate of Authority from the Commissioner. Such certificate shall not be granted until the applicant conforms to the applicable requirements of this Title and of the other laws of Guam prerequisite to its issue. After a certificate is granted, the insurer shall continue to comply with the requirements pertaining to it as set forth in this Title and in the other laws of Guam.

SOURCE: GC § 43101.

§ 15103. Certificate of Authority: Application.

Any person desiring to transact insurance business in Guam as an insurer, shall file with the Commissioner an application for a certificate stating the class or classes of insurance which it proposes to transact accompanied by the following:

(a) A copy of its charter, articles of association, articles of incorporation, or other controlling instruments certified by the official who is required to keep or record the same in the jurisdiction under the laws of which the insurer is organized or incorporated.

(b) A resolution adopted by its governing body in accordance with its by-laws or other internal laws, consenting that service of process upon the Commissioner in any action or proceedings against such insurer brought or pending in Guam upon any cause of action arising in or growing out of business transacted in Guam, shall be valid personal service upon such insurer, irrevocable so long as a policy of such company shall remain in force in Guam, or any loss remains unpaid therein;

(c) A statement setting forth the location and post office address of its principal office, and such shall continue until changed by a similar statement filed with the Commissioner;

(d) A statement of its financial condition and business in such form as prescribed by, or acceptable to, the Commissioner, signed and sworn to be the president and secretary or other principal officers of the insurer; if an alien insurer, the statement shall comprise only its condition and business in the United States and shall be signed and sworn to, in addition to its principal officers, by its United States manager;

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(e) If a foreign insurer, a copy of the last report of examination certified to by the Insurance Commissioner, or like officer, of the political subdivision in which said insurer is organized, or if alien, of the political subdivision in which said United States branch is located, or other proper supervisory official;

(f) A good and sufficient bond, with a surety company approved by the Director of Revenue and Taxation, with the applicant as principal, in a form to be approved by the Commissioner, and running to the Commissioner and his successor in office in the sum of fifty thousand dollars (\$50,000.00), with the condition that the surety on the bond shall be answerable up to the amount of the bond for all judgments, decrees, or orders given, made or rendered against the principal on the bond by any court in Guam for the payment of money. In case of any breach of the condition of any bond, the Commissioner may, and upon demand and receipt of satisfactory assurance for the payment of costs, shall enforce the bond either in his own name or in the name of the interested party thereto for the use and benefit of any person injured by the breach. The surety on the above bond may withdraw from the same upon giving to the Commissioner written notice of such intention not less than sixty (60) days prior to the date on which the then existing certificate of such principal insurer is to expire, such withdrawal to then be effective on the date of expiration of said certificate; or in lieu of the bond as required by this paragraph, the applicant may deposit with the Commissioner acceptable unencumbered securities or other unencumbered assets of the value of fifty thousand dollars (\$50,000.00) as surety subject to the same conditions as such bond as set forth in this paragraph;

(g) A resolution adopted by its governing body in accordance with its by-laws or other internal laws consenting to being sued by the injured person or his heirs or representatives in a direct action on any policy of liability insurance in accordance with §18305, whether or not the policy of insurance sued upon was written or delivered in Guam, and whether or not such policy contains a provision forbidding such direct action, provided that the cause of action arose in Guam;

(h) Such further information as the Commissioner shall require by regulation or specifically request from the applicant.

SOURCE: GC § 43102.

§ 15104. Annual Renewal of Certificate.

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Unless sooner revoked by the Commissioner, every certificate shall expire on the first day of July after its issuance, unless renewed annually as provided in this article, or extended by the Commissioner, for a period of not exceeding sixty (60) days, for good cause.

SOURCE: GC § 43103.

§ 15105. Annual Renewal of Certificate: Application.

All insurers holding a current certificate shall annually, not later than June 1, file with the Commissioner an application for renewal together with the information required by this section:

- (a) A request for renewal of general agent's licenses;
- (b) An affidavit setting forth that it has continued to comply with all applicable provisions of this Title;
- (c) Such other information as the Commissioner shall require by regulations or request specifically from the applicant.

SOURCE: GC § 43104.

§ 15106. Refusal, Suspension or Revocation.

The Commissioner may refuse to grant or renew a certificate, or may suspend or revoke a certificate, for any one of the reasons provided in this section:

- (a) The insurer's refusal or failure to comply with, or the violation of, any of the provisions of this Title applicable to such insurer or any lawful order or regulation of the Commissioner.
- (b) The insurer is delinquent in the payment of any fees, licenses, taxes, assessments, fines or penalties owed to the government of Guam, or is otherwise in default for failure to comply with any of the laws of Guam;
- (c) Whenever in the judgment of the Commissioner the assets of such insurer are not in such condition as to make available within a reasonable time sufficient monies to meet promptly any demand which might in the ordinary course of its insurance business by properly made against the insurer;
- (d) Whenever in the judgment of the Commissioner the insurer is insolvent or in an unsafe financial condition which would render any insurance of such insurer unsafe or unsatisfactory;

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

SOURCE: GC § 43105.

§ 15107. Refusal, Suspension or Revocation: Procedure.

(a) Whenever the Commissioner shall refuse, suspend or revoke a certificate, he shall issue an order to that effect and promptly give notice of the same by mailing a copy of such order in a sealed, postpaid, registered envelope to each licensed general agent and to the principal office of such insurer.

(b) Any insurer receiving such order may request a review by the Commissioner under §12206.

(c) The order of refusal, suspension or revocation shall cite therein the cause for such action.

(d) After review by the Commissioner, he shall issue his final order and cause a copy of the same to be mailed to the persons, and in a like manner, as provided for the giving of the original notice.

(e) Any insurer whose application for a certificate has been refused, or whose certificate has been revoked, may file a new application for a certificate with the Commissioner at any time by complying with the requirements for the original issue of said certificate and the making of a showing that the reason for such refusal or revocation has been corrected, and the payment of the necessary fees.

SOURCE: GC § 43106.

§ 15108. Suspension.

(a) Whenever the Commissioner shall order the suspension of a certificate, such suspension shall be for a period of not more than ninety (90) days.

(b) The period of suspension set by the Commissioner shall run from the date the order becomes final.

(c) The Commissioner may grant an additional period of suspension not to exceed thirty (30) days, to run from the last days of original suspension period on application of the insurer and a showing of good cause.

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(d) After the period of suspension has run, the Commissioner shall either reinstate or revoke the certificate, depending on whether the insurer remedied the reasons for such suspension.

(e) It shall be unlawful for an insurer whose certificate is under suspension to transact new insurance in Guam during such period of suspension, but it shall continue in business solely for the benefit of its policy holders and claimants under insurance effected while its certificate was valid and in force.

SOURCE: GC § 43107.

§ 15109. Expiration or Revocation.

Any insurer whose certificate has expired or has been revoked shall transact no new insurance in Guam thereafter but shall continue in business solely for the benefit of its policy holders and claimants under insurance effected while its certificate was valid and in force until such a time as it complies with the prerequisites of withdrawal as provided in § 15113 or until it has been issued a new certificate.

SOURCE: GC § 43108.

§ 15110. Fees.

(a) The Commissioner shall require the payment in advance of the following fees:

Filing of application for certificate of authority	\$900.00
Filing of application for renewal of certificate of Authority	\$500.00
Filing of any other certificate, statement, paper or exhibit required by this Title	\$ 20.00
Filing of new application after refusal to issue original certificate	\$900.00
Filing of application for issuance of certificate after Revocation or expiration	\$900.00
Filing of application for withdrawal	\$200.00
Furnishing copies of papers filed, per page	\$ 1.00
Certifying copies of paper filed, per document	\$ 25.00

Fees paid in accordance with the provisions of this Section shall not be refundable under any circumstance.

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(b) All funds deriving from this Section shall be deposited in the Treasury of Guam to the credit of the General Fund.

SOURCE: GC § 43109. Amended by P.L. 29-002:V:I:86 (May 18, 2007).

§ 15111. Maximum Single Risk.

The maximum single risk which may be assumed by any insurer after deduction of any reinsurance taking effect simultaneously with the policy, shall be ten percent (10%) of the paid in capital and surplus of such insurer; provided, however, that a corporate insurer may assume any net single risk in excess of ten percent (10%) of its capital and surplus if it deposits with the Commissioner, prior to the assumption of said risk, a collateral agreement and collateral security, both of which shall be subject to approval by the Commissioner, in an amount not less than that proportion in excess of the foregoing limitation.

SOURCE: GC § 43110.

§ 15112. Reserves.

Except as provided in § 15313, every insurer authorized to transact insurance, or transacting insurance, in Guam shall at all times maintain, in addition to reserves for all other liabilities, reserves as follows: (a) Loss or claim reserves in an amount estimated in the aggregate to provide for the payment of all losses or claims incurred, whether reported or unreported, which are unpaid and for which such insurer may be liable, together with an amount estimated to provide for the expense of adjustment or settlement of such claims, and (b) premium reserves equal to the unearned portions of the gross premiums charged on unexpired or undetermined risks and policies.

SOURCE: GC § 43111.

§ 15113. Withdrawal.

(a) An insurer who desires to withdraw from Guam must first make application to the Commissioner for an order granting permission to withdraw.

(b) Such application shall be accompanied by an affidavit of its principal officer and general agent, that:

(1) It desires to withdraw and to permanently discontinue the transaction of the insurance business in Guam;

(2) All its outstanding policies have either expired or have been reinsured, in which case it shall file an affidavit by the reinsuring

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company stating that it has reinsured certain policies of the withdrawing company and setting forth in detail the policies it has reinsured; and that

(3) All existing claims arising out of insurance transacted in Guam have been paid in full.

(c) It shall cause publication of a notice of its intention to withdraw in a newspaper of general circulation in Guam once a week for four (4) consecutive weeks, and shall cause said newspaper to file affidavit of publication with the Commissioner.

(d) If any person shall object to such withdrawal within one (1) week from date of last publication, and give good and sufficient cause therefore, the Commissioner may order that permission for such withdrawal be refused.

(e) If the insurer has complied with the provisions of this section and no objection has been made, or if objection is made but without good and sufficient cause, the Commissioner shall order permission to withdraw and the withdrawing insurer shall deliver to the Commissioner for cancellation its certificate of authority and current licenses of its agents and solicitors.

SOURCE: GC § 43112.

§ 15114. Penalty.

Any person violating any provision of this Article shall be fined no more than Five Thousand Dollars (\$5,000.00).

SOURCE: GC § 43113. Repealed by P.L. 13-187:214. Added by P.L. 29-002:V:I:87 (May 18, 2007).

ARTICLE 2
UNIFORM UNAUTHORIZED INSURERS ACT

- § 15201. Representing or Placing Insurance with Unauthorized Insurers Prohibited.
- § 15201.1. Non-Profit Sports Association Insurance. [Temporary Authorization].
- § 15202. Aiding Unauthorized Insurers.
- § 15203. Representing or Aiding Insured in Effecting Insurance on Property or Risk in Unauthorized State.
- § 15204. Excepted Contracts and Activities.

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- § 15205. Service of Process Upon Unauthorized Insurer.
- § 15206. Institution of Action, Etc., by Unauthorized Insurer.
- § 15207. Defense of Action by Authorized Insurer.
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- § 15209. Uniformity of Interpretation.
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§ 15201. Representing or Placing Insurance with Unauthorized Insurers Prohibited.

No person, corporation, association or partnership shall, in this territory, act as agent for any insurer not authorized to transact business in this territory, or negotiate for or place or aid in placing insurance coverage in this territory for another with any such insurer.

SOURCE: GC § 43125.

§ 15201.1. Non-Profit Sports Association Insurance. [Temporary Authorization].

(a) Legislative Findings and Intent. *I Liheslaturan Guåhan* [Guam Legislature] finds that Youth Sports Organizations were previously insured by [a] National or International Insurance Company at a rate affordable by the local organizations and which no insurance company on Guam could match such rates.

(b) Authorization to Secure Off-Guam Insurance. Notwithstanding any other provision of Law, any registered Guam non-profit youth sport association is hereby authorized to secure off-Guam liability and accident insurance for purposes of their participation in local inter-league plays and off-Guam participations.

This authorization shall only be implemented after solicitations of local insurance companies is exhausted, and only if the rate of insurance by the local insurance company is more than twenty-five percent (25%) higher than those offered by the National or International Insurance Company.

SOURCE: Added by P.L. 26-27:3 (7/05/2001). Subsection (b) amended by P.L. 26-60:9.

§ 15201.2. Affordable Accident and Liability Insurance for Youth Recreational Organizations.

Youth Recreational Organizations shall have the authority to procure accident, liability and volunteer insurance from off-island carriers

recommended or designated by any national organization in which they are an affiliate. For the purposes of this Section, the Insurance Commissioner shall certify that accident or liability insurance is unaffordable if such insurance offered by the national organization is at least ten percent (10%) less than the cost of any accident or liability insurance offered on-island.

SOURCE: Added by P.L. 27-27:6.

§ 15202. Aiding Unauthorized Insurers.

No person, corporation, association or partnership shall, in this territory, aid any unauthorized insurer in adjusting insurance or in transacting insurance business in this territory, either by fixing rates by adjusting or investigating losses, by inspecting or examining risks, by acting as attorney-in-fact or as attorney for service of process, or otherwise, except as provided in § 15205.

SOURCE: GC § 43126.

§ 15203. Representing or Aiding Insured in Effecting Insurance on Property or Risk in Unauthorized State.

No person, corporation, association or partnership shall make, negotiate for or place, or aid in negotiating or placing any insurance contract in this territory for another who is an applicant for insurance covering any property or risk in another state, territory or district of the United States with any insurer not authorized to transact insurance business in the state, territory or district wherein such property or risk or any part thereof is located..

SOURCE: GC § 43127.

§ 15204. Excepted Contracts and Activities.

The provisions of the foregoing sections do not apply to contracts of reinsurance or to contracts of insurance covering risks of transportation and navigation, or to contracts of insurance made through authorized surplus line broker or agents, nor do they apply to an insurer not authorized in this territory or its representatives, in investigating, adjusting losses or otherwise complying in this territory with the terms of its insurance contracts made in a state wherein the insurer was authorized and in which the property or risk was located or residing at time of the execution of the contract.

SOURCE: GC § 43128.

§ 15205. Service of Process Upon Unauthorized Insurer.

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(a) The transacting of business in this territory by a foreign or alien insurer without a certificate of authority and the issuance or delivery by such foreign or alien insurer of a policy or contract of insurance to a citizen of this territory or to a resident thereof, or to a corporation authorized to do business therein, is equivalent to an appointment by such insurer to the Commissioner and his successor or successors in office, to be its true and lawful attorney, upon whom may be served all lawful process in any action, suit or proceeding arising out of such policy or contract of insurance, and the said issuance or delivery is a signification of its agreement that any such service or process is of the same legal force and validity as personal service of process in this territory upon it.

(b) Such service of process shall be made by delivering and leaving with the Commissioner or to some person in apparent charge of his office two (2) copies thereof and the payment to him of such fees as may be prescribed by law. The Commissioner shall forthwith mail by registered mail one (1) of the copies of such process to the defendant at his last known principal place of business and shall keep a record of all processes so served upon him. Such service of process is sufficient, provided notice of such service and a copy of the process are sent within ten (10) days thereafter by registered mail by plaintiff's attorney to the defendant at his last known principal place of business, and the defendant's receipt, or receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff's attorney showing a compliance herewith, are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow. However, no plaintiff or complainant shall be entitled to a judgment by default, or a judgment with leave to prove damages, or a judgment pro confesso under this section until the expiration of thirty (30) days from date of the filing of the affidavit of compliance.

(c) Service of process in any such action, suit or proceedings shall, in addition to the manner provided in subsection (b) of this section, be valid if served upon any person within this territory who, in this territory, on behalf of such insurer, is (1) soliciting insurance, or (2) making any contract of insurance or issuing or delivering any policies or written contracts of insurance, or (3) collecting or receiving any premium for insurance; and a copy of such process is sent within ten (10) days thereafter by registered mail by the plaintiff's attorney to the defendant at the last known principal

place of business of the defendant, and the defendant's receipt, or the receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff's attorney showing a compliance herewith, are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or with such further time as the court may allow.

(d) Nothing in this section contained shall limit or abridge the right to serve any process, notice or demand upon any insurer in any other manner now or hereafter permitted by law.

SOURCE: GC § 43129.

§ 15206. Institution of Action, Etc., by Unauthorized Insurer.

No unauthorized insurer shall institute or file, or cause to be instituted or filed, any suit, action or proceeding in this territory to enforce any right, claim or demand arising out of the transaction of business in this territory until such insurer shall have obtained a certificate of authority to transact insurance business in this territory.

SOURCE: GC § 43130.

§ 15207. Defense of Action by Unauthorized Insurer.

(a) Before any unauthorized insurer shall file or cause to be filed any pleading in any action, suit or proceeding instituted against it, such unauthorized insurer shall either (1) file with the clerk of the court in which such action, suit or proceeding is pending a bond with good and sufficient sureties, to be approved by the court, in an amount to be fixed by the court sufficient to secure the payment of any final judgment which may be rendered in such action; or (2) procure a certificate of authority to transact the business of insurance in this territory.

(b) The court in any action, suit, or proceeding, in which service is made in the manner provided in subsection (b) or (c) of § 15205 may order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with the provisions of subsection (a) of this section and to defend such action.

(c) Nothing in subsection (a) of this section is to be construed to prevent an unauthorized insurer from filing a motion to quash a writ or to set aside service therefor made in the manner provided in subsections (b) or (c) of § 15205 hereof on the ground either (1) that no policy or contract of

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insurance has been issued or delivered to a citizen or resident of this territory or to a corporation authorized to do business therein, or (2) that such insurer has not been transacting business in this territory, or (3) that the person on whom service was made pursuant to subsection (c) of § 15205 was not doing any of the acts therein enumerated.

SOURCE: GC § 43131.

§ 15208. Penalty.

Any person, corporation, association or partnership violating any of the provisions of § 15201 through § 15207 shall be guilty of a misdemeanor and shall, in addition to any other penalty authorized by law, be subject to a fine of not more than five thousand dollars (\$5,000.00).

SOURCE: GC § 43132. Amended by P.L. 13-187:215.

§ 15209. Uniformity of Interpretation.

This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states and territories which enact it.

SOURCE: GC § 43133.

§ 15210. Short Title.

This Article may be cited as the *Uniform Unauthorized Insurers Act*.

SOURCE: GC § 43134.

ARTICLE 3
DOMESTIC INSURERS

- § 15301. Scope of Article.
- § 15302. Organization.
- § 15303. Application for Authority.
- § 15304. Application for Authority: Notice.
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- § 15306. Time to Incorporate.
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- § 15310. Capital: Other Than Life Insurer: Increase and Decrease.
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- § 15313. Life Insurer: Reserve.
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- § 15315. Life Insurer: Policy: Violation.
- § 15316. Supervision.
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§ 15301. Scope of Article.

The provisions of this article shall apply only to domestic insurers; provided, that such domestic insurers are also subject to all other applicable provisions of this Title from which they are not otherwise specifically excepted.

SOURCE: GC § 43150.

§ 15302. Organization.

It shall be unlawful for a domestic insurer to be formed, or to transact insurance in Guam, unless it is incorporated under the laws of Guam and in conformance with the applicable provisions of this Title and unless all of its voting shares of stock have a par value as certified in its articles of incorporation.

SOURCE: GC § 43151.

§ 15303. Application for Authority.

Any number of persons sufficient to organize a corporation in Guam may file an application with the Commissioner for authority to organize as an insurance corporation. No person shall organize an insurance corporation until written authority for that purpose has been obtained from the Commissioner. The application shall be in duplicate and shall contain the information required herein.

- (a) The proposed location of its principal office, amount of paid-in capital, and corporate name which shall include the word *insurance*;
- (b) The proposed articles of incorporation showing the classes of insurance business which it proposes to transact;
- (c) Evidence of the character, financial responsibility, business experience and ability of the proposed incorporators, directors and officers;

(d) All other information required to be filed with the articles of incorporation under the laws of the Territory of Guam for the purpose of receiving a corporate charter, or by regulations of the Commissioner, or specifically requested of the incorporators by the Commissioner.

SOURCE: GC § 43152.

§ 15304. Application for Authority: Notice.

The applicant shall publish notice of the filing of such application at least once a week for three (3) consecutive weeks in a daily newspaper of general circulation in the Territory of Guam in a form approved by the Commissioner; the notice shall contain the date of filing of the application, the proposed corporate name, the address of its principal office, the classes of insurance it proposes to transact, the amount of proposed paid-in capital, the names of the applicants and of the proposed officers and directors, and the time and place appointed by the Commissioner for the hearing of said application. The first publication of said notice shall be made within ten (10) days of the date of filing the application and proof of publication shall be filed with the Commissioner on or before the date appointed for the hearing.

SOURCE: GC § 43153.

§ 15305. Application for Authority: Hearing.

(a) Upon receipt of the application the Commissioner shall make investigation and after publication of notice, shall hold a hearing to hear any objections, if any, to the proposed organization.

(b) The Commissioner. may provide for the procedure and conduct of such hearing by regulation.

(c) If the Commissioner is satisfied after such hearing and investigation that the proposed corporation is formed for a legitimate purpose under this Title, and in conformance thereto, and that the character, financial responsibility, general fitness and competency of persons named in the application are sufficient, and that the approval of the application would be to the best interests of all concerned, then he shall approve the application and issue an order of such approval.

(d) If the Commissioner is not so satisfied, he shall endorse his disapproval thereon and return one (1) of the duplicate applications to the applicant together with his order of refusal containing his reasons thereof.

An applicant receiving such an order may request a hearing by the Commissioner under §12206.

SOURCE: GC § 43154.

§ 15306. Time to Incorporate.

Within ninety (90) days after the date of the Commissioner's approval, the applicant shall file articles of incorporation in the Department of Revenue and Taxation and pay the fee required in accordance with law.

SOURCE: GC § 43155.

§ 15307. Certificate of Authority.

After its incorporation, it shall be unlawful for the applicant to transact insurance until it has obtained a certificate of authority.

SOURCE: GC § 43156.

§ 15308. Promotional Expense.

The Commissioner shall not issue a certificate to any domestic insurer where the Commissioner's examination shows that the expense of organization and promotion exceeds ten percent (10%) of the total amount actually paid on its capital stock.

SOURCE: GC § 43157.

§ 15309. Capital: Other than Life Insurer.

Every domestic insurer shall have a minimum paid-in capital of twenty-five thousand dollars (\$25,000.00), which shall be sufficient for the transaction of any one (1) class of insurance authorized under this Title, except life insurance. For each additional class of insurance to be transacted, except life insurance, there shall be an additional paid-in capital of fifteen thousand dollars (\$15,000.00), but any insurer having a paid-in capital of one hundred thousand dollars (\$100,000.00) may transact any or all' classes of insurance authorized, except life insurance. Paid-in capital required under this section must be paid in cash.

SOURCE: GC § 43158.

§ 15310. Capital: Other than Life Insurer: Increase and Decrease.

(a) Any admitted domestic insurer may increase or decrease the amount of its capital after giving notice once a week for four (4) consecutive weeks in a newspaper of general circulation in Guam of such intention, and by filing with the Commissioner a copy of such

advertisement together with a declaration under its corporate seal, signed by stockholders representing three-fourths (3/4) of its capital, of their desire so to do.

(b) If any person shall object to such increase or decrease within one (1) week from date of last publication and give good cause therefor, the Commissioner may order the insurer not to so increase or decrease its capital.

(c) If the insurer receives no such order from the Commissioner within ten (10) days after last publication, it may proceed with the announced plan.

SOURCE: GC § 43159.

§ 15311. Merger: Consolidation.

A domestic insurer may merge or consolidate with another insurer, subject to the following conditions:

(a) The plan of merger or consolidation must be submitted to and be approved by the Commissioner in advance of the merger and consolidation.

(b) The Commissioner shall not approve any such plan unless he finds, after a hearing, that it is fair, equitable, consistent with law, and that no reasonable objection exists. If the Commissioner fails to approve the plan, he shall state his reasons for such failure in his order made on such hearing.

SOURCE: GC § 43160.

§ 15312. Life Insurer: Capital.

Every domestic insurer desiring to transact, or transacting, life insurance in Guam, shall have a minimum paid-in capital of one hundred thousand dollars (\$100,000.00) exclusive of and in addition to the minimum paid-in capital required for other classes of insurance as provided in § 15309. Paid-in capital required under this section must be paid in cash.

SOURCE: GC § 43161.

§ 15313. Life Insurer: Reserve.

(a) Every domestic insurer authorized to transact, or transacting, life insurance shall provide, hold and maintain minimum reserves for each such life policy based upon the Commissioner's Standard Ordinary Mortality Table.

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(b) The minimum reserves required by this section to be maintained shall be kept on deposit in such bank or banks, or other financial institutions, located in Guam, as are approved for such purposes by the Commissioner. Such deposits shall at all times include lawful money of the United States equalling at least twenty-five percent (25%) of the required minimum reserves; the remainder of such deposits may consist of lawful money of the United States or securities of the types allowable as investments for domestic insurers under § 15317 of this Title, or any combination of such money and such securities.

SOURCE: GC § 43162. Subsection (a) amended by P.L. 15-66:VI:10.

§ 15314. Life Insurer: Policy.

Every life policy form used by a domestic insurer shall be approved by the Commissioner prior to such issuance as provided in §18306; provided that it shall contain in substance the following provisions:

(a) A provision that the insured, after three (3) months' premiums have been paid, is entitled to a premium grace period of not less than thirty-one (31) days during which period of grace the policy shall continue in full force; provided that in case the policy becomes a claim during any period of grace, the amount of such premium due may be deducted from the amount payable under the claim;

(b) A provision that the policy shall be incontestable after it has been in force during the lifetime of the insured for a period of two (2) years from date of issue, except for nonpayment of premium;

(c) A provision that the policy as issued shall constitute the entire contract between the parties; provided that the insurer may make the application for the policy a part of the contract by endorsing it upon, or attaching it to, the policy;

(d) A provision that if the age of the insured has been misstated, the contract shall be valid but the amount payable under the policy shall be such as the premium would have purchased at the correct age in accordance with the table of premium rates of the insured;

(e) A provision that in the event of default of any premium payment after three (3) full annual premiums shall have been paid on such policy, the net value of such policy, which net value shall be at least equal to its entire net reserve at the date of default, less a surrender charge of not more than two and one-half percent (2 1/2%)

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of the face amount of the policy and less any indebtedness to the company on or secured by the policy, shall be applied as a single premium to the purchase of one of the following forms of insurance, unless the policy holder shall elect the cash surrender of the policy:

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

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

(f) A provision that in event of default of any premium payment after three (3) full annual premiums shall have been paid, the policy may be surrendered to the insurer within sixty (60) days after date of premium default for a cash value which shall be at least equal to the sum which would be otherwise available for the purchase of paid-up insurance as provided above if the insured so elects.

SOURCE: GC § 43163.

§ 15315. Life Insurer: Policy: Violation.

Any policy issued in violation of § 15314 shall nevertheless be held valid but shall be construed as provided in § 15314, and when any provision therein conflicts with any provision of said section, or of any other statutory provision, the rights, duties and obligations of the insurer, the policy holder and the beneficiary shall be governed and interpreted in accordance with this Title.

SOURCE: GC § 43164.

§ 15316. Supervision.

(a) Every admitted domestic insurer shall, on or before April 1 of each year, file with the Commissioner a financial statement, verified under oath, setting forth its financial condition, transactions and affairs as of the 31st day of December immediately preceding, in general form and context as approved by the National Association of Insurance Commissioners, plus any additional information required by the Commissioner.

(b) Every such insurer shall keep full and complete books, records, accounts, and vouchers, and shall keep them at all times in such a manner

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that its financial condition can be readily ascertained, its financial statement readily verified, and its compliance with this Title seen.

(c) The Commissioner may make a detailed examination into the affairs of any domestic insurer as often as he deems it expedient for the protection of the people of Guam, and shall make such detailed examination of every domestic insurer at least once in every three (3) years. The cost of such examination shall be paid by the insurer examined.

(d) The Commissioner shall make a full and true report of every examination made by him together with such conclusions and recommendations as may be reasonably warranted by the facts, which report shall be filed in the official permanent files of the Commissioner and shall be admissible in evidence in any action, or proceeding in the name of the government against the insurer.

(e) When the assets of any domestic insurer, computed at their actual fair value, are less than the aggregate amount of such insurer's liabilities and outstanding capital stock, the Commissioner shall determine the amount of such impairment of capital and shall order such insurer to eliminate such impairment within such period as he shall designate, not more than six (6) months from the service of the order; the Commissioner may also by order prohibit such insurer from issuing any new policies while such impairment exists. If the amount of such impairment is equal to or more than twenty-five per centum (25%) of the insurer's outstanding capital stock, or is such that the insurer does not have the minimum capital required by this Title, the Commissioner shall suspend such insurer's certificate of authority until such time as the impairment is fully eliminated; and if such impairment is not fully eliminated within the period designated by the Commissioner, he shall by order revoke the insurer's certificate and shall apply to the Superior Court for an order upon such insurer to show cause why its articles should not be revoked and a receiver appointed to liquidate its affairs.

(f) Filing Fee for Annual Statement: Penalty. The filing fee for an annual financial statement shall be Fifty Dollars (\$50.00). Any domestic insurer that fails to file an annual financial statement on or before April 1st of each year as required by subsection (a) hereof, shall pay a penalty of Five Hundred Dollars (\$500.00). After May 15th the domestic insurer shall pay an additional late filing fee of One Hundred Dollars (\$100.00) per day. The failure of a domestic insurer or company to file the required annual financial statement shall compel the automatic suspension or revocation of the domestic insurer's or company's certificate of authority.

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SOURCE: GC § 43165. Subsection (f) added by P.L. 29-002:V:I:88 (May 18, 2007).

§ 15317. Investments.

It shall be unlawful for any domestic insurer to invest any of its assets otherwise than is authorized by this section:

(a) Real estate as may be reasonably required for its home and branch offices; except that where title to real estate is, or has been, acquired under the conditions of any mortgage, or by purchase or set off on execution upon judgment for debts contracted in the course of business, or by other process in settlement for debts, the same may be held for a period not to exceed five (5) years unless permission to hold for a longer period is granted in writing by the Commissioner;

(b) Bonds or notes secured by first mortgages or deeds of trust upon improved real estate, which improvements may be or include those to be placed thereon by the proceeds of said bonds or notes, in a maximum amount not to exceed twenty percent (20%) of its assets; provided that the value of the security shall, at the time of the investment, be at least fifty percent (50%) more than the principal of the obligations secured thereby, except when the mortgage loans are guaranteed or insured by the government of the United States or any agency thereof;

(c) Interest bearing bonds, notes or obligations of the United States, or any political subdivision of the United States or any incorporated city of the United States of a population of not less than fifty thousand (50,000) inhabitants as shown by the next preceding Federal census, provided that there has been no default in the payment of either principal or interest on any of the general obligations of issuer for a period of fifteen (15) years next preceding the date of such investment;

(d) Stock issued by any Federal home loan bank of which such insurer may be eligible to become a member; bonds, debentures and notes issued by any Federal home loan bank;

(e) Not more than ten percent (10%) of an insurer's capital and surplus may be invested in or loaned upon the security of any one person, nor loaned upon the security of any one parcel of property; provided, however, that there shall be a fifty percent (50%) limitation of the total amount of an insurer's capital and surplus that may be

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invested and/or deposited in any bank that provides evidence to the domestic insurer that it has met each of following requirements:

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

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

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

(f) Loans upon the security of its own policies not exceeding the cash surrender value thereof at the time of making the loan.

SOURCE: GC § 43166.Subsection (e) amended by P.L. 22-162.

§ 15318. Penalty.

Any person violating any provision of this Article shall be fined no more than Five Thousand Dollars (\$5,000.00).

SOURCE: GC § 43167. Repealed by P.L. 13-187:216. Added by P.L. 29-002:V:I:89 (May 18, 2007).

ARTICLE 4
FOREIGN INSURERS

- § 15401. Scope of Article.
- § 15402. General Agent.
- § 15403. Examination.
- § 15404. Annual Financial Statement.
- § 15405. Filing Fee for Annual Statement: Penalty.

§ 15401. Scope of Article.

The provisions of this article shall apply only to foreign insurers; provided that such foreign insurers are also subject to all other provisions of this Title from which they are not otherwise specifically excepted.

SOURCE: GC § 43175.

§ 15402. General Agent.

A foreign insurer shall not be granted a certificate unless and until it has duly complied with the provisions of this section:

(a) Duly appointed a licensed resident general agent who shall have a power of attorney of the insurer which authorizes him to appoint sub-agents and solicitors for the insurer;

(b) Filed with the Commissioner its consent that its resident general agent shall be authorized to accept service of process on its behalf for all cases, and that such service shall constitute personal service upon such insurer;

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

SOURCE: GC § 43176.

§ 15403. Examination.

Whenever any foreign insurer applies for admission, the Commissioner may cause to be made by the insurance authority of the jurisdiction where such insurer is organized, an examination of its business and affairs, and report of such examination be made to him. At such other times as the Commissioner shall deem necessary and proper, he may cause a like examination to be made. The cost of such examination shall be paid by the insurer examined.

SOURCE: GC § 43177.

§ 15404. Annual Financial Statement.

Every admitted foreign insurer shall, on or before April 1 of each year, file with the Commissioner an annual financial statement, verified under oath, setting forth its financial condition, transactions and affairs as of the 31st day of December immediately preceding, in general form and context as approved by the National Association of Insurance Commissioners, plus any additional information required by the Commissioner.

SOURCE: GC § 43178.

§ 15405. Filing Fee for Annual Statement: Penalty.

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The filing fee for an annual financial statement shall be Fifty Dollars (\$50.00). Any foreign insurer that fails to file an annual financial statement on or before April 1st of each year as required in §15404 shall pay a penalty of Five Hundred Dollars (\$500.00). After May 15th, the foreign insurer shall pay an additional late filing fee of One Hundred Dollars (\$100.00) per day. The failure of the foreign insurer or company to file the required annual financial statement shall compel the foreign insurer's or company's certificate of authority to be suspended or revoked.

SOURCE: Added by P.L. 29-002:V:I:90 (May 18, 2007).

ARTICLE 5
ALIEN INSURERS

- § 15501. Scope of Article.
- § 15502. General Agent.
- § 15503. Deposit of Securities.
- § 15504. Annual Financial Statement.
- § 15505. Examination.
- § 15506. Filing Fee for Annual Statement: Penalty.

§ 15501. Scope of Article.

The provisions of this article shall be applicable only to alien insurers, provided that such alien insurers are also subject to all other provisions of this Title from which they are not otherwise specifically excepted.

SOURCE: GC § 43200.

§ 15502. General Agent.

An alien insurer shall not be granted a certificate unless and until it has complied with the provisions of this section:

(a) Duly appointed a licensed resident general agent who shall have the power of attorney of the insurer which authorizes him to appoint sub-agents and solicitors for the insurer;

(b) Has filed with the Commissioner its consent that its resident general agent shall be authorized to accept service of process on its behalf for all cases, and that such service shall constitute personal service upon such insurers;

(c) Has filed with the Commissioner a power of attorney authorizing the resident general agent to countersign all policies of the alien insurer effected on risks in Guam.

SOURCE: GC § 43201.

§ 15503. Deposit of Securities.

(a) An alien insurer, as a prerequisite to the transaction of any insurance in Guam, shall furnish such proof as the Commissioner shall require that it has, in Guam, unencumbered United States dollar assets available for the payment of claims in Guam in a minimum amount equal to the paid-in capital required of domestic insurers by Article III of this Title, or it shall make a deposit with the Commissioner of securities, of a class or classes authorized for investment of the assets of domestic insurers, in an amount equal to the minimum amount of paid-in capital required of domestic insurers by Article III of this Title.

(b) For the purpose of computing the amount of the deposit, the securities shall be valued by the Commissioner at their current market value; such deposit shall always be in an amount that such value meets the above stated minimum requirements.

(c) The deposit shall be continuously maintained so long as any obligation arising out of any insurance transacted by such alien insurer in Guam remains in existence for any purpose whatsoever.

(d) Such deposit shall be for the benefit and security of all policy holders and creditors of such alien insurer in Guam and the Commissioner shall be the trustee for such beneficiaries in the event of any default by the insurer in accordance with the terms of the policy.

(e) On receipt of such deposit, the Commissioner shall issue the depositing insurer a receipt stating the items and amount of securities so deposited; the Commissioner may provide for the deposit or safekeeping of such securities in any bank or banks or other financial institutions located in Guam as shall be approved for such purposes.

SOURCE: GC § 43202.

§ 15504. Annual Financial Statement.

Every admitted alien insurer shall, on or before April 1 of each year, file with the Commissioner an annual financial statement, verified under oath, setting forth its financial conditions, transactions and affairs as of the 31st day of December immediately preceding, in general form and context

as approved by the National Association of Insurance Commissioners, plus any additional information required by the Commissioner.

SOURCE: GC § 43205.

§ 15505. Examination.

Whenever any alien insurer applies for admission, the Commissioner may cause to be made by the proper authority of the jurisdiction where such insurer is organized, or if authorized to transact insurance business in a United States jurisdiction other than Guam, by the insurance authority of such other United States jurisdiction, an examination of its business and financial affairs and report made to him thereon. At such other times as the Commissioner shall deem necessary and proper, he may cause a like examination to be made. The cost of such examination shall be paid by the insurer examined.

SOURCE: GC § 43204.

§ 15506. Filing Fee for Annual Statement: Penalty.

The filing fee for an annual financial statement shall be Fifty Dollars (\$50.00). Any alien insurer that fails to file a financial statement on or before April 1st of each year as required in §15504 shall pay a penalty of Five Hundred Dollars (\$500.00). After May 15th, the alien insurer shall pay an additional late filing fee of One Hundred Dollars (\$100.00) per day. The failure of the foreign insurer or company to file the required annual financial statement shall automatically compel the foreign insurer's or company's certificate of authority to be suspended or revoked.

SOURCE: Added by P.L. 29-002:VI:91 (May 18, 2007).

**ARTICLE 6
UNIFORM INSURERS LIQUIDATION ACT**

- § 15601. Definitions.
- § 15602. Conduct of Delinquency Proceedings Against Insurers Domiciled in this Territory.
- § 15603. Conduct of Delinquency Proceedings Against Insurers not Domiciled in this Territory.
- § 15604. Filing and Proving of Claims of Nonresidents Against Delinquent Insurers Domiciled in this Territory.

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- § 15605. Filing and Proving of Claims of Residents Against Delinquent Insurers Domiciled in Reciprocal States.
- § 15606. Priority of Preferred Claims.
- § 15607. Priority of Special Deposit Claims.
- § 15608. Priority of Secured Claims.
- § 15609. Attachment and Garnishment of Assets.
- § 15610. Right of Domiciliary Receiver to Sue in this Territory.
- § 15611. Severability Clause.
- § 15612. Uniformity of Interpretation.
- § 15613. Short Title.
- § 15614. Repeal.

§ 15601. Definitions.

For the purpose of this article:

(a) *Insurer* means any person, firm, corporation, association, or aggregation of persons doing any insurance business subject to the insurance supervisory authority of the Insurance Commissioner of this territory, or the equivalent insurance supervisory official of another state.

(b) *Delinquency proceeding* means any proceeding commenced against an insurer for the purpose of liquidating, rehabilitating, reorganizing, or conserving such insurer.

(c) *State* means any state of the United States, its territories and possessions, and the District of Columbia.

(d) *Foreign country* means territory not in any state.

(e) *Domiciliary state* means the state in which an insurer is incorporated or organized, or, in the case of an insurer incorporated or organized in a foreign country, the state in which such insurer, having become authorized to do business in such state, has, at the commencement of delinquency proceedings, the largest amount of its assets held in trust, and assets held on deposit for the benefit of its policy holders or policy holders and creditors in the United States; and any such insurer is deemed to be domiciled in such state.

(f) *Ancillary state* means any state other than a domiciliary state.

(g) *Reciprocal state* means any state other than this territory in which, in substance and effect, the provisions of this article are in

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force, including the provisions requiring that the Insurance Commissioner or equivalent insurance supervisory official be the receiver of a delinquent insurer.

(h) *General assets* means all property, real, personal, or otherwise, not specifically mortgaged, pledged, deposited, or otherwise encumbered for the security or benefit of specified persons, or a limited class or classes of persons, and as to such specifically encumbered property the term includes all such property or its proceeds in excess of the amount necessary to discharge the sum or sums secured thereby. Assets held in trust and assets held on deposit for the security or benefit of all policy holders, or all policy holders and creditors in the United States, shall be deemed general assets.

(i) *Preferred claim* means any claim with respect to which the law of a state or of the United States accords priority of payment from the general assets of the insurer.

(j) *Special deposit claim* means any claim secured by a deposit made pursuant to statute for the security or benefit of a limited class or classes of persons, but not including any general assets.

(k) *Secured claim* means any claim secured by mortgage, trust, deed, pledge, deposit as a security, escrow, or otherwise, but not including special deposit claims or claims against general assets. The term also includes claims which more than four (4) months prior to the commencement of delinquency proceedings in the state of the insurer's domicile have become liens upon specific assets by reason of judicial process.

(l) *Receiver* means receiver, liquidator, rehabilitator, or conservator, as the context may require.

SOURCE: GC § 43225.

§ 15602. Conduct of Delinquency Proceedings Against Insurers Domiciled in this Territory.

(a) Whenever under the laws of this territory a receiver is to be appointed in delinquency proceedings for an insurer domiciled in this territory, the court shall appoint a competent receiver who shall furnish proper bond in an amount determined by said court. The court shall direct the receiver forthwith to take possession of the assets of the insurer and to administer the same under orders of this court.

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(b) The domiciliary receiver and his successors in office shall be vested by operation of law with the title to all of the property, contracts, and rights of action, and all of the books and records of the insurer wherever located, as of the date of entry of the order directing possession to be taken, and he shall have the right to recover the same and reduce the same to possession; except that ancillary receivers in reciprocal states shall have, as to assets located in their respective states, the rights and powers which are hereinafter prescribed for ancillary receivers appointed in this territory as to assets located in this territory. The filing or recording of the order directing possession to be taken, or a certified copy thereof, in the office where instruments affecting title to property are required to be filed or recorded shall impart the same notice as would be imparted by a deed, bill of sale, or other evidence of title duly filed or recorded. The domiciliary receiver shall be responsible on his official bond for the proper administration of all assets coming into his possession or control. The court may at any time require an additional bond from him or his deputies if deemed desirable for the protection of the assets.

(c) Upon taking possession of the assets of a delinquent insurer, the domiciliary receiver shall, subject to the direction of the court, immediately proceed to conduct the business of the insurer or to take such steps as are authorized by the laws of this territory for the purpose of liquidating, rehabilitating, reorganizing, or conserving the affairs of the insurer. In connection with delinquency proceedings, he may, with the approval of the court, appoint one or more special deputy receivers to act for him and may employ such counsel, clerks, and assistants as he deems necessary. The compensation of the special deputies, counsel, clerks, or assistants and all expenses of taking possession of the delinquent insurer and of conducting the delinquency proceedings shall be fixed by the receiver, subject to the approval of the court, and shall be paid out of funds or assets of the insurer. Within the limit of the duties imposed upon them, special deputies shall possess all the powers given to, and, in the exercise of those powers, shall be subject to all of the duties imposed upon the receiver with respect to delinquency proceedings.

SOURCE: GC § 43226.

§ 15603. Conduct of Delinquency Proceedings Against Insurers not Domiciled in this Territory.

(a) Whenever Under the laws of this territory an ancillary receiver is to be appointed in delinquency proceedings for an insurer not domiciled in this

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territory, the Commissioner shall file a petition requesting the appointment (1) if he finds that there are sufficient assets of such insurer located in this territory to justify the appointment of an ancillary receiver, or (2) if ten (10) or more persons resident in this territory, having claims against such insurer, file a petition with the Commissioner requesting the appointment of such ancillary receiver.

(b) The domiciliary receiver of an insurer domiciled in a reciprocal state shall be vested by operation of law with the title to all of the property, contracts, and rights of action, and all of the books and records of the insurer located in this territory, and he shall have the immediate right to recover balances due from local agents and to obtain possession of any books and records of the insurer found in this territory. He shall also be entitled to recover the other assets of the insurer located in this territory except that upon the appointment of an ancillary receiver in this territory, the ancillary receiver shall, during the ancillary receivership proceedings, have the **sole** right to recover such other assets. The ancillary receiver shall, as soon as practicable, liquidate from their respective securities those special deposit claims and secured claims which are proved and allowed in the ancillary proceedings in this territory and shall pay the necessary expenses of the proceedings. All remaining assets he shall promptly transfer to the domiciliary receiver. Subject to the foregoing provisions, the ancillary receiver and his deputies shall have the same powers and be subject to the same duties with respect to the administration of such assets as a receiver of an insurer domiciled in this territory.

SOURCE: GC § 43227.

§ 15604. Filing and Proving of Claims of Nonresidents Against Delinquent Insurers Domiciled in this Territory.

(a) In a delinquency proceeding begun in this territory against an insurer domiciled in this territory, claimants residing in reciprocal states may file claims either, with the ancillary receivers, if any, in their respective states, or with the domiciliary receiver. All such claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

(b) Controverted claims belonging to claimants residing in reciprocal states may either (1) be proved in this territory as provided by law, or (2) if ancillary proceedings have been commenced in such reciprocal states, may be proved in those proceedings. In the event a claimant elects to prove his claim in ancillary proceedings, if notice of the claim and opportunity to

appear and be heard is afforded the domiciliary receiver of this territory, as provided in § 15605 with respect to ancillary proceedings in this territory, the final allowance of such claim by the courts in the ancillary state shall be accepted in this territory as conclusive as to its amount and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within the ancillary state.

SOURCE: GC § 43228.

§ 15605. Filing and Proving of Claims of Residents Against Delinquent Insurers Domiciled in Reciprocal States.

(a) In a delinquency proceeding in a reciprocal state against an insurer domiciled in that state, claimants against such insurer who reside within this territory may file claims either with the ancillary receiver, if any, appointed in this territory or with the domiciliary receiver. All such claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

(b) Controverted claims belonging to claimants residing in this territory may either (1) be proved in the domiciliary state as provided by the law of that state, or (2) if ancillary proceedings have been commenced in this territory, be proved in those proceedings. In the event that any such claimant elects to prove his claim in this territory, he shall file his claim with the ancillary receiver in the manner provided by the law of this territory for the proving of claims against insurers domiciled in this territory, and he shall give notice in writing to the receiver in the domiciliary state, either by registered mail or by personal service, at least forty (40) days prior to the date set for hearing. The notice shall contain a concise statement of the amount of the claim, the facts on which the claim is based, and the priorities asserted, if any. If the domiciliary receiver, within thirty (30) days after the giving of such notice, shall give notice in writing to the ancillary receiver and to the claimant, either by registered mail or by personal service, of his intention to contest such claim, he shall be entitled to appear or to be represented in any proceedings in this territory involving the adjudication of the claim. The final allowance of the claim by the courts of this territory shall be accepted as conclusive as to its amount and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within this territory.

SOURCE: GC § 43229.

§ 15606. Priority of Preferred Claims.

(a) In a delinquency proceeding against an insurer domiciled in this territory, claims owing to residents of ancillary states shall be preferred claims if like claims are preferred under the laws of this territory. All such claims whether owing to residents or non-residents shall be given equal priority of payment from general assets regardless of where such assets are located.

(b) In a delinquency proceeding against an insurer domiciled in a reciprocal state, claims owing to residents of this territory shall be preferred if like claims are preferred by the laws of that state.

SOURCE: GC § 43230.

§ 15607. Priority of Special Deposit Claims.

The owners of special deposit claims against an insurer for which a receiver is appointed in this or any other states shall be given priority against their several special deposits in accordance with the provisions of the statutes governing the creation and maintenance of such deposits. If there is a deficiency in any such deposit so that the claims secured thereby are not fully discharged therefrom, the claimants may share in the general assets, but such sharing shall be deferred until general creditors, and also claimants against other special deposits who have received smaller percentages from their respective special deposits, have been paid percentages of their claims equal to the percentages paid from the special deposit.

SOURCE: GC § 43231.

§ 15608. Priority of Secured Claims.

The owner of a secured claim against an insurer for which a receiver has been appointed in this or any other state may surrender his security and file his claim as a general creditor, or the claim may be discharged by resort to the security, in which case the deficiency, if any, shall be treated as a claim against the general assets of the insurer on the same basis as claims of unsecured creditors. If the amount of the deficiency has been adjudicated in ancillary proceedings as provided in this Act, or if it has been adjudicated by a court of competent jurisdiction in proceedings in which the domiciliary receiver has had notice and opportunity to be heard, such amount shall be conclusive; otherwise the amount shall be determined in the delinquency proceeding in the domiciliary state.

SOURCE: GC § 43232.

§ 15609. Attachment and Garnishment of Assets.

During the pendency of delinquency proceedings in this or any reciprocal state, no action or proceeding in the nature of an attachment, garnishment, or execution shall be commenced or maintained in the courts of this territory against the delinquent insurer or its assets. Any lien obtained by any such action or proceeding within four (4) months prior to the commencement of any such delinquency proceedings or at any time thereafter, shall be void as against any rights arising in such delinquency proceeding.

SOURCE: GC § 43233.

§ 15610. Right of Domiciliary Receiver to Sue in This Territory.

The domiciliary receiver of an insurer domiciled in a reciprocal state may sue in this territory to recover any assets of such insurer to which he may be entitled under the laws of this territory.

SOURCE: GC § 43234.

§ 15611. Severability Clause.

If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of the article are declared to be severable.

SOURCE: GC § 43235.

§ 15612. Uniformity of Interpretation.

This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states that enact it.

SOURCE: GC § 43236.

§ 15613. Short Title.

This article may be Cited as the *Uniform Insurers Liquidation Act*.

SOURCE: GC § 43237.

§ 15614. Repeal.

All acts or parts of acts which are inconsistent with the provisions of this article are hereby repealed to the extent of such inconsistency.

SOURCE: GC § 43238.

ARTICLE 7
BROKERS, GENERAL AGENTS, SUB-AGENTS AND SOLICITORS

- § 15701. License.
- § 15702. Endorsement of Qualifications.
- § 15703. Additional Education.
- § 15704. Endorsement of Qualifications: Additional Requirements.
- § 15704.1. Application for License.
- § 15704.2. Licensing of Agents
- § 15705. Same: Refusal, Suspension, Revocation.
- § 15705.1. Non-resident Licensing.
- § 15706. Commissions.
- § 15707. Definitions.
- § 15707.1. Refunds, Rebates, Deductibles and Other Wellness Incentives in Health Plans *or* Health Insurance Policies.
- § 15708. Misrepresentation of Policy.
- § 15709. Compensation of Adjuster.
- § 15710. Insurance Adjusters.
- § 15711. Application for License; to Whom License May be Issued.
- § 15712. Penalty.

§ 15701. License.

It shall be unlawful for any person to do or perform any act in Guam as an insurance broker, general agent, sub-agent, or solicitor, or hold himself out as such, for any kind of insurance without having first obtained a license issued by the Commissioner. Licenses and the renewals thereof shall be for an annual term expiring the 1st day of July occurring after issuance. The fee for each type of license and the renewal thereof shall be as follows:

Broker	\$ 100.00
General Agent	\$ 100.00
Sub-agent	\$ 25.00
Nonresident producer	\$ 25.00
Solicitor	\$ 25.00

SOURCE: GC § 43250. Amended by P.L. 29-002:V:I:92 (May 18, 2007).

§ 15702. Endorsement of Qualifications.

The Commissioner shall investigate the qualifications of any person applying for a license or renewal. For the purpose of his investigation, he shall require the applicant to file with him a statement, verified under oath, as follows:

(a) The name, age, business and residence address of the applicant, and if the applicant is a firm or corporation, the name and address of each person thereof designated to act for him;

(b) The type of license applied for and a description of the type of business to be engaged in under such licenses, including the classes of insurance he proposes to represent;

(c) The previous insurance experience of the applicant, if any, together with the names and addresses of all insurers or agents whom he represented or was employed by;

(d) A statement that the principal use of such license is not to effect insurance on the applicant's own life, property or risks, or on the life, property or risks of an employee or member of his family;

(e) Such other information as the Commissioner shall require by regulations or specifically request of the applicant.

SOURCE: GC § 43251.

§ 15703. Additional Education.

For the protection of the people of Guam, the Commissioner shall not permit a person to continue as licensed to sell insurance pursuant to this Article unless such person has demonstrated, to the satisfaction of the Commissioner, that in addition to meeting the standards contained in this Article for the issuance of such license such person has continued to meet such additional educational requirements as the Commissioner may prescribe by regulation adopted pursuant to the Administrative Adjudication Law for the purpose of maintaining or improving such person's insurance skills or knowledge.

SOURCE: GC § 43251a. Added by P.L. 21-92:1.

§ 15704. Endorsement of Qualifications: Additional Requirements.

The statement of the applicant required by § 15702 shall be accompanied by the following:

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(a) If the application is for a general agent's license, the request of the insurer that the applicant be licensed to represent such insurer as a general agent;

(b) If the application is for a sub-agent's license, the request of either an insurer or general agent that such applicant be licensed to represent such insurer or general agent as a subagent;

(c) If the application is for a solicitor's license, the request of either an insurer, general agent or a sub-agent that such applicant be licensed to represent such insurer, general agent or sub-agent as a solicitor.

SOURCE: GC § 43252.

§ 15704.1. Application for License.

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

- (1) is at least eighteen (18) years of age;
- (2) has not committed any act that is a ground for denial, suspension or revocation set forth in this Title;
- (3) has paid the fees set forth in this Title; and
- (4) has successfully passed the examinations for the lines of authority for which the person has applied.

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

- (1) the business entity has paid the fees set forth in this Title;
and
- (2) the business entity has designated a licensed producer responsible for the business entity's compliance with the insurance laws, rules and regulations of Guam.

SOURCE: Added by P.L. 26-56:3. Amended by P.L. 27-88:7(b).

§ 15704.2. Licensing of Agents.

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

Any person, corporation or bank desiring to act as an agent of any insurance carrier licensed to do business on Guam and writing health and accident insurance may obtain a separate license as an agent to write health and accident insurance; provided, such person, corporation or bank complies with the provisions of this Article, and has been appointed to act as an agent by some duly authorized insurance carrier authorized to do health and accident insurance business on Guam.

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

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

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

(2) accident and health, health maintenance organization or sickness insurance coverage for sickness, bodily injury or accidental death, and may include benefits for disability income;

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

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

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

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

(7) credit-limited line credit insurance; or

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

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

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

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

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

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

SOURCE: Added by P.L. 26-56:4. Subsection (c)(2) amended by P.L. 28-168:1 (Jan. 10, 2007). Subsections (f), (g) and (h) amended by P.L. 27-88:7(c).

§ 15705. Same: Refusal, Suspension, Revocation.

(a) The Commissioner may, for the reasons contained herein, refuse to issue or renew a license, or may suspend or revoke a license, for any of the following reasons:

- (1) The person has wilfully violated any provision of this Title;
- (2) The person has intentionally made a material misstatement in his application;
- (3) The person has been guilty of fraudulent or dishonest practices;
- (4) The person has misappropriated or converted to his own use or illegally withheld monies held in a fiduciary capacity;
- (5) The person has misrepresented the terms and conditions of policies;
- (6) The person has been guilty of rebating;
- (7) The person has conducted his business in such a manner as to cause injury to the public or to those with whom he is dealing;
- (8) The person does not meet the necessary qualifications to act in such capacity.

(b) A license may be suspended for not more than sixty (60) days. A person whose license has been revoked shall not be eligible to apply for a new license for a period of three (3) months.

(c) A refusal, suspension, or revocation under this section shall be by order of Commissioner, and the person adversely affected may request a hearing pursuant to §12206.

(d) Notice of any refusal, suspension or revocation of a license under this section shall be given to the insurer, general agent or sub-agent requesting that such applicant be licensed.

SOURCE: GC § 43253.

§ 15705.1. Non-resident Licensing.

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

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

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

(3) the person has submitted or transmitted to the insurance commissioner the application for licensure that the person submitted to that person's home state, or in lieu of the same, a completed Uniform Application; and

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

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

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

(d) Notwithstanding any other provisions of this Act [P.L. 26-56], a person licensed as a surplus lines producer in that person's home state shall receive a non-resident surplus lines producer license pursuant to Subsection (a) of this Section. Except as to Subsection (a), nothing in this Section otherwise amends or supercedes any provision regulating excess and surplus lines.

(e) Notwithstanding any other provisions of this Act, a person licensed as a limited line credit insurance or other type of limited lines producer in that person's home state shall receive a non-resident limited lines producer license, pursuant to Subsection (a) of this Section, granting the same scope

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of authority as granted under the license issued by the producer's home state.

SOURCE: Added by P.L. 26-56:5.

COMMENT: Section 157119, referred to in the first paragraph of this Section, does not exist even though this is the section number that appears in the original legislation. The Compiler believes that the true reference is to § 15705, which deals with denials of licences, but he cannot be sure about this.

§ 15706. Commissions.

(a) The paying or allowing of any commission or other valuable consideration on insurance transacted in Guam by an insurer or its agent to other admitted insurers or to licensed brokers, agents, or solicitors for solicitation of the business is lawful.

(b) If at the time of the solicitation and issuance of a policy of insurance which by its terms continues until cancelled, a licensed person may lawfully receive commissions thereon, such person or his personal representative may continue to receive commissions thereon during the continuance in force or renewal of such policy without being licensed.

(c) It is unlawful for any insurance agent who is not also a licensed insurance broker to receive commissions derived from insurance placed with an insurer which has not appointed him to act as its agent in the transaction of such insurance.

(d) It is unlawful for an insurance agent who is not also a licensed insurance broker to receive commissions on insurance from any source other than an insurer for whom he is licensed.

SOURCE: GC § 43254.

§ 15707. Definitions.

As used in this Section, the following terms have the following meanings:

(a) *Co-payment* is the partial payment of medical expenses, emergency room services, or prescription drugs required by an individual who is enrolled in a group health insurance plan. For example, a co-payment for a visit to a doctor's office might be Ten Dollars (\$10). Co-payments are in addition to the payment of premiums and deductible amounts.

(b) *Deductible* is the amount that must be paid by the insured out of pocket before benefits will be paid by the insurer.

(c) *Pre-funded deductible* is a deductible paid in increments during the plan year to the insurer by the insured from his or her post-tax dollars and held by the insurer to pay provided claims on behalf of the insured under the deductibles.

(d) *Rebate or Refund* is the amount of a payment that has been made *or* funded that is paid back, credited *or* otherwise returnable to a health insured that has completed a Wellness Program qualified under HIPAA.

(e) *Premium* is the payment, *or* one of the regular periodic payments, that a group employer and/or individual make to a health insurer to enroll in a health plan *or* to own an insurance policy.

SOURCE: GC § 54255. Amended by P.L. 22-14:1. R/R by P.L. 29-121:2 (Dec. 2, 2008), effective, July 1, 2007, pursuant to P.L. 29-121:8.

§ 15707.1 Refunds, Rebates, Deductibles and Other Wellness Incentives in Health Plans *or* Health Insurance Policies.

(a) It *shall not* be unlawful for an insurer to offer *or* sell, *or* for a broker, agent or solicitor on behalf of an insurer to offer *or* sell, a health plan *or* health insurance policy which provides for a refund *or* rebate of premium or deductible, a discounted co-payment *or* other wellness incentive in a health plan *or* health insurance policy, provided, that any such valuable consideration *or* reward is specified in the plan *or* policy, and further provided, that the plan *or* policy complies with the Final Rules for Nondiscrimination and Wellness Programs promulgated under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), which provide an express *exception* to the general rule prohibiting discrimination on a health factor *if* the reward is based on participation in a wellness program of health promotion *or* disease prevention.

(b) It *shall not* be unlawful for an insurer to pay a refund *or* rebate of premium *or* refund a deductible to an insured *or* discount a co-payment under a health plan *or* health insurance policy, provided, that the amount of such payment complies with limitations and restrictions set forth in HIPAA and the Final Rules for Nondiscrimination and Wellness Programs promulgated under HIPAA.

(c) It is unlawful for any insurer *or* general agent to appoint an agent for the purpose of enabling such agent, *or* other person, to obtain at a cost *less than* that specified in the policy any insurance from such insurer.

(d) The provisions of this Section and the requirement of a wellness program under the *exception* to the HIPAA's general rule against discrimination *shall not* be applicable to any health plan *or* health insurance policy which does *not* discriminate against any individual on any health factor *or* otherwise violate the general rule. Refunds of premiums, deductibles (including pre-funded deductibles) *or* co-payments which are uniformly applied to all similarly situated insureds are *not* rewards based on a health factor, and are therefore *not* in violation of the general rule.

SOURCE: Added by P.L. 29-121:3 (Dec. 2, 2008).

§ 15708. Misrepresentation of Policy.

It is unlawful for an insurer, broker, agent, or solicitor to cause or permit to be issued, circulated or used, any misrepresentation of the following:

- (a) The terms of a policy issued by the insurer or sought to be negotiated by the person making or permitting the misrepresentation;
- (b) The benefits or privileges promised thereunder;
- (c) The future dividends payable thereunder.

SOURCE: GC § 43256.

§ 15709. Compensation of Adjuster.

It is unlawful for an insurer to pay any representative who is given discretion as to the settlement or adjustment of claims under any insurance, whether in direct negotiations or in supervision of the person negotiating, which in any way is contingent upon the amount of settlement of each claim, except that this section shall not apply to marine insurance.

SOURCE: GC § 43257.

§ 15710. Insurance Adjusters.

No person, except a person otherwise licensed under this article, shall make any adjustment under an insurance policy covering hazards described in Article I of Chapter 18 of this Title, unless he shall hold a license under this section or is exempted therefrom.

- (a) An insurance adjuster's license may be issued by the

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Commissioner to any person filing an application on a prescribed form, and upon payment of a license fee of Fifty Dollars (\$50.00). Licenses and renewals thereof shall be for a term expiring one (1) year after date of issue.

(b) Any license under this section may be refused, suspended or revoked for any of the reasons set forth in § 15705 of this Title and in the manner so provided therein.

SOURCE: GC § 43258. Subsection (a) amended by P.L. 29-002:V:I:93 (May 18, 2007).

§ 15711. Application for License; to Whom License May be Issued.

(a) Definitions.

(1) In this Section, 'person' means an individual or business entity. The term 'partnership' or 'agency partnership,' as used in this Section, means a general partnership or a registered limited liability partnership.

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

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

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

(1) Any person, corporation or bank that desires to become an agent for a local mutual aid association, a local mutual burial association, a government mutual assessment corporation, a government mutual insurance company, a casualty company writing accident and health insurance company, or any other type of insurance

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carrier licensed to do business on Guam, the agents of which are required to be licensed under this Article, shall submit to the Department an application for a license in the form required by the Department.

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

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

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

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

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

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

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

The comptroller shall accept and receive the deposit and hold it exclusively for the protection of a customer of the bank who recovers a final judgment against the bank. The deposit may be withdrawn only upon filing with the Department satisfactory evidence that the bank has withdrawn from the business of insurance and has no unsecured liabilities outstanding, or that the bank has provided for the protection of its customers by furnishing an errors and omissions policy, or a bond, as provided by this Subsection.

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

A bank licensed as an agent under this Article must maintain the insurance records of the bank, including all files relating to customer complaints, separate from records relating to the banking transactions of the

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bank. If at any time a bank that holds an agent's license does not maintain the qualifications necessary to obtain a license, the license of that bank to act as an agent shall be canceled or denied in accordance with this Article. Each bank licensed as an agent under this Article shall file under oath with its application for license renewal a list of the name and address of each individual who will be acting as an agent on behalf of the bank.

SOURCE: GC § 43259. Repealed by P.L. 13-187:217. Same section number used (added) by P.L. 26-56:6 but for a different topic.

§ 15712. Penalty.

Any person who is found violating any provision of this Article, shall pay a fine of not more than Five Thousand Dollars (\$5,000.00).

SOURCE: Added by P.L. 29-002:V:I:94 (May 18, 2007).

ARTICLE 8
SURPLUS LINE BROKER OR AGENTS

- § 15801. Issuance of Licenses: Fee: Authority Conferred by License.
- § 15802. Execution and Delivery of Bond: Amount of Bond:
Condition: Rights Conferred by License: Expiration Date.
- § 15803. Affidavit as Prerequisite to Procurement of Insurance:
Contents.
- § 15804. Limitations on Issuance: Endorsement on Policy: Filing of
Power of Attorney: Validity of Power.
- § 15805. Record of Business Filing of Statement: Contents.
- § 15806. Status of Companies Issuing Insurance: Liability to Suit:
Duty of Agent on Being Served with Process: Time for
Answer: When Jurisdiction Deemed Acquired.
- § 15807. Penalty for Failure to File Statement and Pay Tax: Action for
Recovery: Revocation of License: Conditions Prerequisite to
Reissuance.

§ 15801. Issuance of Licenses: Fee: Authority Conferred by License.

The Insurance Commissioner, upon receipt of an application in proper form and a license fee of One Hundred Dollars (\$100.00), may issue a surplus line license to any duly qualified and licensed insurance broker or

agent in Guam. Such license shall permit the broker or agent named therein to act as broker or agent in Guam for any foreign company or insurer (or alien company or insurer approved by the Commissioner) not authorized to transact business in Guam in securing, issuing or placing policies of insurance, contracts of indemnity and/or surety bonds on property located in, or undertakings to be carried out in Guam for such companies.

SOURCE: GC § 43260. Amended by P.L. 29-002:V:I:95 (May 18, 2007).

§ 15802. Execution and Delivery of Bond: Amount of Bond: Condition: Rights Conferred by License: Expiration Date.

Before receiving such license, such surplus line broker or agent shall execute and deliver to the commission a bond in the penal sum of two thousand dollars (\$2,000.00) in such form and with such sureties as the Commissioner shall approve, conditioned that he will fully comply with all requirements of this article. Such license shall entitle such broker or agent to transact business for any or all unauthorized insurance companies or insurers as provided in this article, and shall expire on the first day of July next following the date of issue.

SOURCE: GC § 43261.

§ 15803. Affidavit as Prerequisite to Procurement of Insurance: Contents.

Before the person named in such license shall procure, effect or issue any such insurance policy or indemnity contract or surety bond, he or she shall in every case execute and file with the Commissioner his or her affidavit in acceptable form that the insured is unable to procure in any company or companies or insurers admitted to do business in Guam the amount or kind of insurance necessary to protect the property or undertakings of the insured, described in such affidavit at rates not less than the minimum rates on such property promulgated by an authorized rating bureau or other bureau or conference whose rates have been accepted by the Commissioner of Banking and Insurance, and filed in the insurance department as the fair and equitable rate.

SOURCE: GC § 43262. Amended by P.L. 27-88:7(d).

§ 15804. Limitations on Issuance: Endorsement on Policy: Filing of Power of Attorney: Validity of Power.

Such surplus line insurance shall only be issued after the insured has procured insurance in companies admitted to do business on Guam to the

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full amount which such companies are willing to write on such property. Every policy issued under this Section shall be endorsed **“ISSUED IN AN UNAUTHORIZED COMPANY, UNDER AGENT'S (OR BROKER'S) LICENSE NO. _____”**, which endorsement shall be properly filled in and signed by the broker or agent.

Before registering and delivering any such policy for an unauthorized insurance company or insurer, such broker or agent shall procure from such company or insurer a power of attorney which shall empower him or her as its attorney in fact to receive and accept on its behalf service of any and all writs, processes and summonses requisite or necessary to give complete jurisdiction of any such company or insurer to any of the courts of Guam, and shall be deemed to constitute such attorney the authorized agent of such company or insurer upon whom lawful service may be made of all writs, processes and summonses in any case, suit or proceeding in any court mentioned herein. Such power of attorney shall be valid so long as such company or insurer has any liability existing in Guam on account of any outstanding policies or unpaid claims pending against it. Such broker or agent shall file such power of attorney with the Commissioner of Banking and Insurance promptly on receipt of same.

SOURCE: GC § 43263. Amended by P.L. 27-88:7(e).

§ 15805. Record of Business: Filing of Statement: Contents.

Every such broker or agent shall keep a separate account of the business done under his surplus line license and on or before the first day of July in each year, shall file with the Commissioner a statement for the calendar year preceding, giving the name of the insured to whom such policy or indemnity contract granting such unauthorized insurance has been issued, the name and home office of each company issuing any such policy or contract, the amount of such insurance, the great premiums charged therein or therefor, the date and term of the policy, and the amount of premium returned on each policy canceled or not taken, with such other information and upon such form as required by the Commissioner, and pay the Commissioner an amount equal to the taxes imposed by law on the premiums of like authorized insurance companies.

SOURCE: GC § 43264.

§ 15806. Status of Companies Issuing Insurance: Liability to Suit: Duty of Agent on Being Served with Process: Time for Answer: When Jurisdiction Deemed Acquired.

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Every company, insurer or insurers making insurance under the provisions of this section shall be deemed and held to be doing business in Guam as an unlicensed concern, and may be sued upon any cause of action arising under any policy of insurance so issued and delivered by it. Any broker or agent being served with summons and complaint in any such cause shall forthwith mail such summons and complaint, or true and complete copies thereof, by registered letter with proper postage affixed, properly addressed to the company sued, and such company shall have forty (40) days from the date of the service of such summons and complaint upon said broker or agent in which to plead, answer or defend any such cause. Upon service of summons and complaint being had upon such broker or agent for such company, the court in which such action is begun shall be deemed to have duly acquired jurisdiction in personam of the defendant company so served.

SOURCE: GC § 43265.

§ 15807. Penalty for Failure to File Statement and Pay Tax: Action for Recovery: Revocation of License: Conditions Prerequisite to Reissuance.

Every such broker or agent who fails or refuses to make and file said annual statement, and to pay the taxes required to be paid thereon prior to the first day of July after such tax is due, shall be liable for a fine of twenty-five dollars (\$25.00) for each day of said delinquency. Such tax and fine may be recovered in an action to be instituted by the Commissioner in the name of the territory, the attorney general representing him, in any court of competent jurisdiction, and the fine, when so collected, shall be paid to the credit of the general fund. If any such broker or agent shall fail to make and file said annual statement and pay the said taxes, or shall refuse to allow the Commissioner to inspect and examine his records of the business transacted by him pursuant to this section, or shall fail to keep such records in manner as required by the Commissioner, or shall refuse or neglect to immediately notify the insurance company for whom he has placed, registered or delivered a policy, of the commencement of any action or proceeding in any court against such company, the license of such broker or agent shall be immediately revoked by the Commissioner, and no license shall be issued to such broker or agent within one (1) year from the date of such revocation, nor until all such taxes and fines are paid, and the Commissioner shall be satisfied that full compliance with the provisions of this section will be had.

SOURCE: GC § 43266.

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