

**CHAPTER 3
BANKING PRACTICES**

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Article 1
Accounts

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§3101. Interest on Accounts. A bank may maintain deposit accounts and pay interest on balances therein at rates which need not be uniform. The Board may by general regulations fix maximum rates of interest and prohibit the payment on demand accounts.

§3101.1 Same. A bank shall pay interest at a rate not less than that paid on regular passbook savings accounts as calculated by the individual banks on Guam on home mortgage escrow accounts.

SOURCE: Added by P.L. 15-93, effective April 1, 1980.

§3102. Payment of Items. So long as the balance in any account subject to withdrawal by or upon the order of a depositor shall equal or exceed the amount of any item presented for payment, a bank may select from items which in the aggregate exceed the balance, the items to be paid in any order convenient to the bank.

§3103. Transactions Outside the Regular Banking Hours or on Holidays. Nothing in any law of Guam shall in any manner whatsoever affect the validity of, or render void or voidable, the payment, certification, or acceptance of a check or other negotiable instrument or any other transaction by a bank because done or performed on any holiday or half-holiday or during any time other than regular banking hours; provided that nothing herein shall be construed to compel any bank which by law or custom is entitled to close at twelve o'clock noon on any Saturday, or for the whole or any part of any legal holiday, to keep open for the transaction of any business, or to perform any of the acts or transactions aforesaid, on any Saturday after such hour, or on any legal holiday, except at its own option.

§3104. Deposit of Minor; School or Institutional Deposits. (a)

A bank may operate a deposit account in the name of a minor or in the names of two or more persons, one or more of whom are minors, with the same effect upon its liability as if such minors were of full age.

(b) Subject to such regulations as the Board may prescribe for the protection of depositors, a bank may contract with the proper authorities of any elementary or secondary school, or of any institution caring for minors, for the participation by the bank in any school or institutional thrift or savings plan, and it may accept deposits at such a school or institution, either by its own collector or by any representative of the school or institution who becomes the agent of the bank for such purpose.

§3105. Deposits in Two Names. (a) When a deposit has been made or shall hereafter be made, in any bank in the names of two (2) persons, payable to either, or payable to either or survivor, such deposit, or any part thereof, or any interest or dividend thereon, may be paid to either of said persons, whether the other be living or not; and the receipt of acquittance of the person so paid shall be a valid and sufficient release and discharge to the bank for any payment so made.

(b) No bank so paying any such survivor shall thereby be liable for any estate, inheritance or succession taxes due this territory.

§3106. Deposits in Trust. (a) Whenever any deposit shall be made in any bank by any person in trust for another, and no other or further notice of the existence and terms of a legal and valid trust shall have been given in writing to the bank; in the event of the death of the trustee, the same, or any part thereof, together with the dividends or interest thereon, may be paid to the person for whom said deposit was made.

(b) No bank so paying any such survivor shall thereby be liable for any estate, inheritance or succession taxes due this territory.

NOTE: §§3107-3110 were repealed by P.L. 13-150, effective January 1,

1977. **§3111. Final Adjustment of Statements of Accounts.** (a)

When a statement of account has been rendered by a bank to a depositor accompanied by vouchers, if any, which are the basis for debit entries in such account, or the depositor's passbook has been written up by the bank depositor with like accompaniment of vouchers, if any, such account shall after the period of one year from the date of its rendition, in the event no objection thereto has been theretofore made by the depositor, be deemed finally adjusted and settled and its correctness conclusively presumed and such depositor shall thereafter be barred from questioning the correctness of such account for any cause.

(b) Nothing herein shall be construed to relieve the depositor from the duty now imposed by law of exercising the due diligence in the examination of such account and vouchers, if any, when rendered by the bank and of immediate notification to the bank upon discovery of any error therein, nor from the legal consequences of neglect of such duty; nor to prevent the application of §§3406 and 4406 of the Commercial Code to cases governed thereby.

SOURCE: Amended by P.L. 13-150, effective January 1, 1977.

(c) A statement of account may be rendered to a depositor by mailing such statement with supporting vouchers, if any, to his address as shown on the books of the bank.

§3112. Repealed by P.L. 13-150, effective January 1, 1977.

§3113. Adverse Claim to Bank Deposit. Notice to any bank of an adverse claim to a deposit standing on its books to the credit of any person shall not be effectual to cause said bank to recognize said adverse claimant unless said adverse claimant shall also either procure a restraining order, injunction or other appropriate process against said bank from a court of competent jurisdiction in a cause therein instituted by him wherein the person to whose credit the deposit stands is made a party and served with summons or shall execute to said bank in form and with sureties acceptable to its, a bond, indemnifying said bank from any and all liability, loss, damage, costs and expenses, for and on account of the payment of such adverse claim or the dishonor of the check or other order of the person to whose credit the deposit stands on the books of said bank; provided, that this law shall not apply in any instance where the person to whose credit the deposit stands is a fiduciary for such adverse claimant, and the facts constituting such relationship are also the facts showing reasonable cause for relief on the part of the said claimant that the said fiduciary is about to misappropriate said deposit, are made to appear by the affidavit of such claimant.

§3114. Repealed by P.L. 13-150, effective January 1, 1977.

§3115. Powers of Attorney. (a) A bank may continue to recognize the authority of an attorney authorized in writing to operate, in whole or in part, the account of a depositor, until it receives written notice of the revocation of the authority of his attorney.

(b) Written notice of the death or adjudication of incompetency of such depositor shall constitute written notice of revocation of the authority of his attorney.

(c) Notwithstanding that a bank has received written notice of revocation of the authority of such attorney, it may, until thirty (30) days after receipt of such notice, pay any item made, drawn, accepted or indorsed by such attorney prior to such revocation, provided that such item is otherwise properly payable.

(d) No bank shall be liable for damages, penalty or tax by reason of any payment made pursuant to this section.

§3116. Payment from Account When no Executor or Administrator has Qualified. (a) Where no executor or administrator of a deceased depositor has qualified and given notice of his qualifications to the bank, it may in its discretion and at any time after thirty (30) days from the death of the depositor pay out of all accounts maintained with it by him in his individual capacity all sums which do not exceed two thousand dollars (\$2,000.00) in the aggregate (1) to the executor named in any will known to the bank or (2) in the absence of knowledge of a purported will naming a surviving executor to (a) the surviving spouse, (b) the next of kin, or (c) a creditor for expenses of the last illness or funeral, in the above order or priority in the case of conflicting claims.

(b) A bank may in its discretion and at any time after 60 days from the death of a depositor, whose residence address according to

the books of the bank is outside Guam, pay the balance of his accounts, not exceeding five thousand dollars (\$5,000.00) in the aggregate, to an executor or administrator who has qualified in another territory or state unless the bank has received written notice of the appointment of an executor or administrator in Guam.

(c) No bank shall be liable for damages, penalty or tax by reason of any payment made pursuant to this section.

§3117. Transmitting Money: Foreign Exchange. (a) Any bank may accept money for transmissions and may transmit money.

(b) Any bank may buy and sell foreign exchange to the extent necessary to meet the needs of customers.

SOURCE: Amended by P.L. 13-111, effective December 11, 1975.

§3118. Dormant and Inactive Accounts and Unclaimed Funds. (a) In the event a savings account is inactive for ten (10) years and the passbook has not been presented for the posting of earned interest during said period, a bank may transfer the balance of such account to the Treasurer of Guam for the account of the depositor. For the purpose of this section, account shall be considered inactive if no deposits or withdrawals are made from such account.

(b) In the event a savings account is inactive for five (5) years, and the passbook has not been presented for the posting of earned interests during said period, a bank may cease paying interest on such account until advised by the depositor or his representative that the account is active.

(c) In the event a checking account is inactive for two (2) years and the depositor cannot be located, a bank may transfer the balance of such account to the Treasurer of Guam for the account of the depositor.

(d) Prior to transferring the balance of any accounts to the Treasurer of Guam as provided in Paragraphs (a) and (c) of this section, the Commissioner shall notify the depositor in writing that such funds shall be transferred to the Treasurer of Guam within sixty (60) days from the date of notification, and such transfer shall not occur prior to the sixty (60) day period. If the whereabouts and address of the depositor cannot be ascertained, the Commissioner shall publish notice in a newspaper of general circulation for sixty (60) days to the effect that such funds shall be transferred to the Treasurer of Guam, and such transfer shall not occur prior to the 60-day period.

(e) In the event a bank holds unidentified deposits or other funds for three (3) years, the owner of which cannot be determined by the bank, a bank may transfer the balance of such account to the Treasurer of Guam for the account of the depositor, in the event such depositor is determined at a later date.

(f) In the event a bank holds exchanges, bank drafts, cashier's checks, or drafts which have not been presented for payment for ten (10) years, a bank may, if the owner cannot be located, transfer the balance of such account to the Treasurer of Guam for the account of the owner in the event such owner is located at a later date.

(g) In the event a bank holds unidentified loan payments for three (3) years, a bank may transfer the balances of such account to the Treasurer of Guam for the account of the payor, in the event such payor is later determined.

(h) Prior to transferring funds to the Treasurer of Guam pursuant to the provisions of this section, the transferring bank may deduct all sums or costs due the bank, including cost of publication or other notice required by this section. receipt by the Treasurer of Guam for such deposits shall be a full discharge to the transferring bank of all liabilities to the depositor or owner of such funds.

(i) The Treasurer of Guam upon receiving sums of money pursuant to this section shall furnish the transferring bank with a receipt for such sums transferred, and shall deposit such sums in the General Fund of the government of Guam.

(j) The Treasurer of Guam shall maintain accurate records of such sums in accordance with regulations adopted by the Board. Such sums may be claimed at any time by the rightful owner or owners of such sums upon furnishing proof satisfactory to the Treasurer of Guam for their right to such funds. Funds deposited with the Treasurer of Guam pursuant to this section shall not accrue interest. The Treasurer of Guam shall not be liable for damages or penalties for any payment to a claimant of funds deposited pursuant to this section.

(k) The Board may adopt such rules and regulations as may be necessary to implement the provisions of this section.

Article 2

Safe Deposit and Safekeeping

- §3201. Definitions.
- §3202. Authority To Engage in Leasing Safe Deposit Facilities: Subsidiary Company.
- §3203. Access by Fiduciaries.
- §3204. Effect of Lessee's Death or Incompetence.
- §3205. Lease to Minor.
- §3206. Search Procedure on Death.
- §3207. Adverse Claims to Contents of Safe Deposit Box.
- §3208. Special Remedies for Nonpayment of Rent.

§3201. Definitions. As used in this part:

(a) *Lessee* means a person contracting with a lessor for the use of a safe deposit box.

(b) *Lessor* means a bank, trust company, or subsidiary renting safe deposit facilities, and includes a safe deposit company organized and operating under the jurisdiction of the Division solely for the purpose of leasing safe deposit facilities.

(c) *Safe Deposit Box* means a safe deposit box, vault, or other safe deposit receptacle maintained by a lessor and the rules relating thereto apply to property or documents kept in safekeeping in the bank's vault.

§3202. Authority to Engage in Leasing Safe Deposit Facilities: Subsidiary Company. (a) Subject to such regulations as the Board may prescribe, a bank, trust company or safe deposit company may maintain and lease safe deposit boxes and may accept property or documents for safekeeping if, except in the case of night depositories, it issues a receipt therefor.

(b) A territorial bank or trust company may own stock in safe deposit companies not exceeding in aggregate cost fifteen percent (15%) of its capital and surplus, but at least 90% of the stock in each such safe deposit company must be owned by banks or trust companies.

§3203. Access by Fiduciaries. Where a safe deposit box is made available by a lessor to one or more persons acting as fiduciaries, the lessor may, except as otherwise expressly provided in the lease or the writings pursuant to which such fiduciaries are acting, allow access thereto as follows:

(1) By any one or more of the persons acting as executors or administrators.

(2) By any one or more of the persons otherwise acting as fiduciaries when authorized in writing signed by all other persons so acting.

(3) By any agent authorized in writing signed by all of the persons acting as fiduciaries.

§3204. Effect of Lessee's Death or Incompetence. Where a lessor without knowledge of the death or of an adjudication of legal incompetence of the lessee, deals with his agent pursuant to a written power of attorney signed by such lessee, the transaction binds the lessee's estate and the lessee.

§3205. Lease to Minor. A bank may lease a safe deposit box to, and in connection therewith death with, a minor with the same effect as if leasing to and dealing with a person of full legal capacity.

§3206. Search Procedure on Death. A lessor shall permit the person named in a court order for the purpose, or if no order has been served upon the lessor, the spouse, a parent, an adult descendant or a person named as an executor in a copy of a purported will produced by him, to open and examine the contents of a safe deposit box leased by a decedent or any documents delivered by a decedent for safekeeping, in the presence of an officer of the lessor; and the lessor, if so requested by such person, must deliver:

(1) Any writing purporting to be a will of the decedent to the court having jurisdiction of the decedent's estate according to his residence declared in such writing; and

(2) Any writing purporting to be a deed to a burial plot or to give burial instructions to the person making the request for a search; and

(3) Any document purporting to be an insurance policy on the life of the decedent to the beneficiary named therein.

But no other contents shall be removed, pursuant to this section until an executor or administrator qualifies and makes claim to the contents.

§3207. Adverse Claims to Contents of Safe Deposit Box. (a)

An adverse claim to the contents of a safe deposit box, or to property held in safekeeping, is not sufficient to require the lessor to deny access to its lessee unless:

(1) The lessor is directed to do so by a court order issued in an action in which the lessee is served with process and named as a party by a name which identifies him with the name in which the safe deposit box is leased or the property held; or

(2) The safe deposit box is leased or the property is held in the name of a lessee with the addition of words indicating that the contents or property is held in a fiduciary capacity, and the adverse claim is supported by a written statement of facts disclosing that it is made by or on behalf of a beneficiary and that there is reason to know that the fiduciary will misappropriate the trust property.

(b) A claim is also adverse claim where one of several lessees claims, contrary to the terms of the lease, an exclusive right of access, or where one or more persons claim a right of access as agents or officers of a lessee to the exclusion of others as agents or officers, or where it is claimed that a lessee is the same person as one using another name.

§3208. Special Remedies for Nonpayment of Rent. (a)

If the rental due on a safe deposit box has not been paid for one year, the lessor may send a notice by registered mail to the last known address of the lessee stating that the safe deposit box will be opened and its contents stored at the expense of the lessee unless payment of the rental is made within thirty (30) days. If the rental is not paid within thirty (30) days from the mailing of the notice, the box may be opened in the presence of an officer of the lessor and of a notary public who is not a director, officer, employee or stockholder of the lessor. The contents shall be sealed in a package by the notary public who shall write on the outside the name of the lessee and the date of the opening. The notary public shall execute a certificate reciting the

name of the lessee, the date of the opening of the box and a list of its contents. The certificate shall be included in the package and a copy of the certificate shall be sent by registered mail to the last known address of the lessee. The package shall then be placed in the general vaults of the lessor at a rental not exceeding the rental previously charged for the box.

(b) If the contents of the safe deposit box have not been claimed within two (2) years of the mailing of the certificate, the lessor may send a further notice to the last known address of the lessee stating that, unless the accumulated charges are paid within thirty (30) days, the contents of the box will be sold at public auction at a specified time and place, or, in the case of securities listed on a stock exchange, will be sold upon the exchange on or after a specified date and that unsalable items will be destroyed. The time, place and manner of sale shall also be posted conspicuously on the premises of the lessor and advertised once a newspaper of general circulation in the community. If the articles are not claimed, they may then be sold in accordance with the notice.

The balance of the proceeds, after deducting accumulated charges, including the expense of advertising and conducting the sale, shall be deposited to the credit of the lessee in any account maintained by him, or if none, shall be deemed a deposit account with the bank or trust company operating the safe deposit facility, or in the case of a subsidiary safe deposit company, a bank or trust company owning stock therein, and shall be identified on the books of the bank as arising from the sale of contents of a safe deposit box. When any such deposit is surrendered as unclaimed deposits, the lessor shall also send to the Commissioner a copy of the certificate and an itemized statement of the amount received and the deductions. Any items remaining unsold may be destroyed.

(c) Any documents or writings of a private nature, having little or no apparent value need not be offered for sale, but shall be retained, unless claimed by the owner, for the period specified for unclaimed deposits, after which they may be destroyed.

Article 3
Trust Business

- §3301. Qualification and Fiduciary Powers: Deposit of Securities.
§3302. Fiduciary Bond or Oath Excused.
§3303. Identification and Segregation of Fiduciary Assets; Investment and Deposit of Cash; Nominee for Securities.
§3304. Investment of Funds Held as Fiduciary.
§3305. Common Trust Funds.

§3301. Qualification and Fiduciary Powers: Deposit of Securities. (a) It shall be a criminal offense against this Title for a bank to act as fiduciary unless it is authorized by its charter to exercise trust powers and has qualified by depositing with the Commissioner evidences of indebtedness acceptable to him which:

- (1) Are payable to bearer or recorded in the Commissioner's name;
- (2) Constitute readily marketable legal investments for funds held by a bank as a fiduciary; and
- (3) Have a value equal to ten percent (10%) of the minimum capital and surplus requirements set forth in §4104 of this Act.

(b) A bank shall have the right to receive the income on evidences of the indebtedness deposited with the Commissioner as long as the bank continues to conduct its business in the ordinary course.

(c) A bank which fails to maintain its deposit in conformity with this section shall, upon order of the Commissioner, resign its fiduciary positions.

(d) Upon liquidation, abandonment of trust powers, or resignation from all fiduciary positions, the deposit shall be made available for the ratable satisfaction of claims involving fiduciary accounts. Any surplus remaining after the satisfaction of all such claims shall be returned to the bank.

§3302. Fiduciary Bond or Oath Excused. No oath or bond shall be required of a bank to qualify upon appointment as a fiduciary, unless the instrument creating a fiduciary position expressly otherwise provides.

§3303. Identification and Segregation of Fiduciary Assets; Investment and Deposit of Cash; Nominee for Securities. (a) A bank holding any asset as a fiduciary shall:

- (1) Segregate all such assets from any other assets of the bank and from the assets of other trust, except as may be expressly provided otherwise by law or by the writing creating the trust.
- (2) Record such assets in a separate set of books maintained for fiduciary activities.

(b) Cash held by a bank as fiduciary may be deposited to the credit of the bank as such fiduciary, either with a bank with deposit insurance or with itself, but if such funds are deposited with itself the bank shall pledge as security United States bonds or other securities approved by the Commissioner for the purpose in the amount of the deposit in excess of the amount covered by deposit insurance. Deposits may represent the assets of more than one (1) fiduciary estate if a record is maintained of the proper allocation.

(c) Any bank, when acting in Guam as a fiduciary or a co-fiduciary with others or as an agent for other fiduciaries, may with the consent of its co-fiduciary or co-fiduciaries, if any (who are hereby authorized to give such consent), or the fiduciaries, for whom it is acting, cause any investment held in any such capacity, to be registered and held in the name of a nominee or nominees of such bank. Such bank shall be liable for the acts of any such nominee with respect to any investment so registered. The records of such bank shall at all times show the trust for which any such investment is held and the securities shall be in the possession and control of such bank and be kept separate and apart from the assets of such bank.

§3304. Investment of Funds Held as Fiduciary. A bank acting as fiduciary shall have the same investment powers as an individual fiduciary under like circumstances.

§3305. Common Trust Funds. A bank or trust company may create one or more common trust funds in which individuals may participate and invest.

Article 4

Reserves, Loans, Investment and Miscellaneous

- §3401. Reserves Against Deposits.
- §3402. Loans.
- §3403. Investments.
- §3404. Acceptance.
- §3405. Diversification of Loans and Investments.
- §3406. Acquisition of Property to Satisfy or Protect Previous Loan.
- §3407. Acquisition of Banking Premises and Equipment.
- §3408. Sale of Assets in Ordinary Course.
- §3409. Borrowing.
- §3410. Pledge of Assets.
- §3411. Indorsement and Signature Guaranty.

§3401. Reserves Against Deposits. (a) A bank whether or not a member of the Federal Reserve System, shall maintain such reserves against deposits as may be established by the Federal Reserve Act or by the Board of Governors of the Federal Reserve System.

(b) The reserve fund shall consist of legal tender on hand on the premises of the bank and money due on demand from a Federal Reserve Bank or other bank approved as a reserve depository by the Commissioner.

(c) It shall be a criminal offense against this Title for a territorial bank to continue an average deficiency in its reserve covering any two (2) successive banking days for more than one additional banking day without notifying the Commissioner.

§3402. Loans. (a) A commercial bank may lend at a lawful rate of interest on the security of the personal obligation of the borrower.

(b) A commercial bank may lend on the security of personal property but shall not make any loan on the security of its own stock or its obligations subordinate to deposits. A loan made on the security of the stock or obligations subordinate to deposits of another banking institution must be for a stipulated period not longer than three (3) years and require full amortization by approximately equal or diminishing payments, including both principal and interest, at regular intervals of not more than three (3) months.

(c) A bank may lend at a lawful rate of interest on the security of a first mortgage on improved real estate, when:

(1) The loan is fully guaranteed or insured by the United States or any agency thereof whether the insurance is payable in cash or in obligations of the United States; or

(2) The real estate is located within Guam and the loan (excluding any portion thereof guaranteed by the Administrator of Veterans Affairs pursuant to any law of the United States or guaranteed by any other agency of the United States), together with all prior liens upon the property, does not exceed eighty percent (80%) of the appraised value of the property; or

(3) The security of real estate does not exceed eighty percent (80%) of the appraised market value of the real estate over and above all taxes due and bonded indebtedness for public improvements due. No commercial bank shall loan in the aggregate more than the sum of seventy-five percent (75%) of its savings deposit, if it also transacts the business of a savings bank, and twenty-five percent (25%) of the total of its capital, surplus, and commercial deposits on obligations secured by real

estate. These provisions, however, shall not prevent any bank from taking another and immediately subsequent mortgage or deed of trust thereon when it already holds a first mortgage or deed of trust on the real estate, nor from accepting a second lien on real estate to secure the repayment of a debt previously contracted in good faith; nor shall it prevent subsequent liens of any kind from being taken to secure the payment of a debt previously contracted in good faith when the subsequent liens are necessary further to secure the payment of any debt and to save the bank from loss. There shall be on file at the bank in support such real estate obligation such as appraisal, evidence of merchantable title, and insurance as may be required by the Commissioner.

(d) A bank may lend at a lawful rate of interest upon a mortgage or pledge of a leasehold interest in unencumbered real estate when the loan does not exceed eighty percent (80%) of the total rent reserved in the lease or the appraised value of the property, whichever is less, and provides for complete amortization within ninety percent (90%) of the term of the lease by equal or diminishing payments.

(e) A bank may make the following loans which shall not be deemed loans on the security of real estate or leasehold interests therein within the meaning of this Title.

(1) A loan to provide working capital to any industrial or commercial enterprise.

(2) A loan under Title I of the National Housing Act.

(3) A loan on a leasehold mortgage, payment of which is guaranteed under the National Housing Act or any Act of Congress.

(4) A loan for a period not longer than eighteen (18) months to finance the construction of residential or farm building; and a loan otherwise proper is not made a loan upon real estate or a leasehold therein by the taking of a security interest therein as additional security.

§3403. Investments. (a) In addition to other investments expressly authorized by this Title a territorial bank may purchase (or discount):

(1) Obligations which satisfy the requirements of the this Title for loans and are acquired in full.

(2) Obligations of the United States, or states of the United States.

(3) Obligations of the International Bank for Reconstruction and Redevelopment.

(4) Obligations of a subdivision or instrumentality of a state or territory of the United States, an authority organized under state or territorial law, an interstate compact or by substantially identical legislation adopted by two (2) or more states.

(5) Obligations of a corporation chartered by the United States or a state or territory thereof, doing business in the United States, which are approved by the Board for investment.

(b) A territorial bank may invest an amount not exceeding ten percent (10%) of its capital in the stock of a corporation owned entirely by banks and exclusively engaged in a trust company business

and maintaining its offices on the premises used by the bank or another bank also owning part of its capital stock, and an amount not exceeding twenty-five percent (25%) of its capital in the stock and obligations of a corporation owning the premises occupied by the bank for the transaction of its business.

(c) A territorial bank's investment in the stock of a safe deposit company is governed by §3120.

(d) A bank may purchase or sell without recourse any security upon the order of a customer and for his account.

(e) A bank or trust company may purchase an sell participation in:

(1) One or more evidences of indebtedness and agreements for the payment of money; and

(2) Pools of evidences of indebtedness and agreement for the payment of money subject to regulations by the Banking Board.

(f) A bank, subject to regulation as provided by the Banking Board, may acquire and lease personal property pursuant to a binding arrangement for the leasing of such property to a customer upon terms requiring payment to the bank, during the minimum period of the lease, of rental which in the aggregate will exceed the total expenditures by the bank for or in connection with the ownership, acquisition, maintenance and protection of the property.

(g) No bank shall own capital stock in any territorial bank.

§3404. Acceptances. (a) A commercial bank may accept:

(1) a draft which has not more than six (6) months sight to run, exclusive of days of grace, and is drawn to finance the purchase of goods with maturity in accordance with the original terms of purchase, or is secured by shipping documents transferring or securing title to goods or by receipt of a licenses or bonded warehouse or elevator transferring or securing title to readily marketable, nonperishable staples.

(2) A draft which has not more than three (3) months sight to run, exclusive of days of grace, and is drawn by a bank outside the continental limits of the United States for the purpose of furnishing dollar exchange for trade.

(b) A commercial bank may issue a letter of credit, but unless the authority conferred to draw upon the bank or its correspondents is limited to such drafts as a bank is authorized by this section to accept, the amount of the credit outstanding at any one time shall be deemed to be a loan to the person for whose account the credit was issued.

§3405. Diversification of loans and investments. (a) A territorial bank shall not extend credit directly by means of discount of notes, issuance of letters of credit, acceptance of drafts or otherwise, or purchase any bond, note, bill of exchange or similar evidence of indebtedness, when by reason of such extension of credit or purchase the totals of such obligations so acquired which are held by such bank will exceed the limitations prescribed in the following table:

(1) Loans for a period than eighteen (18)	(50% of capital and surplus)
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- months to finance the construction of residential or farm buildings
- (2) Obligations maturing more than ten (10) years thereafter, except government obligations, corporate bonds, or obligations secured by real property (100% of capital an surplus)
- (3) Obligations secured by real estate together with the current market value of any real estate owned by the bank and not used in its banking business (100% of capital and surplus or 75% of time deposits whichever is greater)
- (4) Unsecured obligations of the same obligor (20% of capital and surplus)

The limitation of Paragraph (4) hereof shall not apply to loans and investments otherwise authorized by this Title when the obligations are:

- (1) Obligations of the United States, or a state or territory or of a Federal Reserve Bank.
- (2) Obligations to the extent that they are secured as to principal and interest by the guarantee, insurance or other like commitment of the United States, an agency of the United States or a Federal Reserve Bank, whether the commitment provides for payment in cash or in obligations of the United States.
- (3) Obligations secured by obligations of the United States or of a state or territory having a value of one hundred percent (100%) of the amount thereof.
- (4) Obligations secured by assignment of a life insurance policy to the extent of the cash surrender value thereof less the amount of one annual premium, but the limitation on such obligations shall be twenty-five percent (25%) of capital and surplus.
- (5) Obligations to the extent that they are secured by pledge of a deposit in a savings bank, but the limitation on such obligations shall be twenty-five percent (25%) of capital and surplus.
- (6) Obligations arising from acceptance of drafts to the extent of eighty-five percent (85%) of the security, if such security is derived from the transaction financed by the acceptance, but the limitation on such obligations shall be twenty-five percent (25%) of capital and surplus.
- (7) Obligations upon a banker's acceptances to the extent that the obligations of the acceptor to the bank do not exceed in amount thirty percent (30%) of the capital and surplus.
- (8) Obligations upon notes or drafts having a maturity of not more than six (6) months exclusive of days of grace, drawn in good faith against actually existing values and secured by an instrument transferring or securing title to goods in process of

shipment or to livestock or creating a lien on livestock to the amount of eighty-five percent (85%) of the value of the security, but the limitation on such obligations shall be twenty-five percent (25%) of capital and surplus.

(9) Obligations upon notes or drafts secured by trust receipts, shipping documents or receipts of a licensed or bonded warehouse or elevator transferring or securing title to readily marketable, nonperishable staples to the amount of eighty percent (80%) of the value of the security, but the limitation on these obligations shall be twenty-five percent (25%) of capital and surplus and this exemption shall not apply (a) unless such staples are insured, if it is customary to insure them; or (b) for more than ten (10) months to obligations of the same obligor arising from the same transaction or secured by the same staples.

(10) Obligations upon loans approved by the Board to a bank located within Guam or to a receiver or conservator thereof or to the Commissioner when he has taken possession thereof, but the limitation on these obligations shall be twenty-five percent (25%) of capital and surplus.

(11) Obligations secured by the assignment of accounts receivable to the extent of eighty percent (80%) of the amount of such accounts not overdue, but the limitation on these obligations shall be twenty-five percent (25%) of capital and surplus.

(12) Obligations secured by readily marketable stocks or bonds to the extent of eighty-five percent (85%) of the current value of the security, but the limitation on the obligations shall be twenty-five percent (25%) of capital and surplus.

(13) Obligations arising out of the daily transaction of the business of any clearing house association.

(b) In calculating for the purposes of this section the obligations of a single obligor or the obligations of a specified class there shall be included:

(1) The direct liability of the maker or acceptor of paper discounted or purchases and the liability of the endorser, drawer or guarantor who obtains a loan or discounts or sells paper under his guaranty. This section excludes contingent liability created by purchase of commercial paper covering sale of goods. [Amended by P.L. 15-77, effective December 1, 1979.]

(2) In the case of obligations of a partnership or association, the obligations of each general partner and of each member of the association.

(3) In the case of obligations of a general partner or a member of an association, the obligations of the partnership or association.

(4) In the case of obligations of a corporation, the obligations of any subsidiaries in which it owns, directly or indirectly, a majority of the outstanding voting stock.

(5) In the case of obligations of a corporation, the amount of a loan made to any other person to the extent that the proceeds of such loan directly or indirectly are to be (a) loaned to the

corporation; (b) used for the acquisition from the corporation of any securities issued by the corporation, other than securities acquired by an underwriter for public hearing; or (c) transferred to the corporation without fair and adequate consideration. The discharge of an equivalent amount of debt previously incurred in good faith for value shall be deemed fair and adequate consideration.

No provision in this section shall be construed to prohibit refinancing of any loan when the security appearing at the time of refinancing is sufficient to meet the provisions of this section.

§3406. Acquisition of property to satisfy or protect previous loan. A bank may take property of any kind to satisfy or protect a loan previously made in good faith and in the ordinary course of business. Property acquired in satisfaction of a loan shall be held subject to the following limitations:

- (1) Stock shall be sold within six (6) months or such additional period not exceeding one year as the Commissioner may allow.
- (2) Real estate may be used in the banking business, subject to the conditions prescribed by this Title for property purchased for such use, or may be rented. Real estate may be improved to facilitate its sale. Unless used in the banking business, it shall be sold within five (5) years of such longer period as the Commissioner may allow.
- (3) Other property the acquisition of which is not otherwise authorized by this Title shall be sold within six (6) months or such longer period as the Commissioner may allow.
- (4) The property shall be entered on the books at cost or fair market value, whichever is less, and property which the bank is not otherwise authorized to acquire shall be charged off at a rate of not less than ten percent (10%) per annum for real estate and twenty percent (20%) per annum for other property or at such lower rate not less than five percent (5%) and ten percent (10%) respectively, as the Commissioner may allow.

§3407. Acquisition of banking premises and equipment. (a) A bank may acquire real estate and equipment and improve real estate to be used in the transaction of its business on Guam and may rent any space so acquired in a building in excess of its present actual need; provided that unless a larger investment is authorized by the Commissioner, no banks shall invest more than the following:

Investment	
Land, building and equipment (other than safe deposit equipment);	50% of capital
Equipment alone (other than safe deposit equipment);	15% of capital
Safe deposit equipment in addition to the above.	10% of capital

(b) The rate of depreciation of property so acquired may be prescribed by the Commissioner.

§3408. Sale of assets in ordinary course. A bank may sell any asset in the ordinary course of business, or, with the approval of the

Board, in any other circumstance, but the sale of all or substantially all of the assets of a bank or a department thereof is governed by §3173.

§3409. Borrowing. A bank may borrow money and issue evidence of indebtedness for a loan for temporary purposes in an amount not exceeding its capital and surplus or in such larger amount or for such other purposes as the Commissioner approves. Debentures issued by a territorial bank may not be retired without the approval of the Commissioner and they shall so provide in express terms.

§3410. Pledge of assets. A bank may pledge its assets to:

- (1) Enable it to act as agent for the sale of obligations of the United States.
- (2) Secure borrowed funds.
- (3) Secure deposits when the depositor is required to obtain such security by the laws of the United States, the terms of any interstate compact or by the laws of any state or territory.

§3411. Indorsement and signature guaranty. (a) A bank may assume secondary liability as an indorser of a negotiable or non-negotiable instrument which it owns or has received for collection or that of the guarantor of the genuineness of a signature.

(b) A guaranty of the signature means only that (1) the signature is not forged; (2) the signer is the holder or has the legal capacity to sign in the name of the holder; and (3) the signer has legal capacity to sign. A guaranty of the signature does not otherwise guarantee his rightfulness of the particular transfer. A bank may disclaim all or any part of the foregoing obligation in its guaranty.

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Article 5
Bank Collections

NOTE: Original rule superseded by Title 13 Guam Code Annotated, Division 4.