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CH. 104 AUTOMATED TELLER MACHINE ENTITIES

CHAPTER 104
AUTOMATED TELLER MACHINE ENTITIES

- § 104101. Regulation.
- § 104102. Penalties.
- § 104103. Criminal Offender Record Information Requests.

SOURCE: This Chapter was added by P.L. 27-88:3.

NOTE: The following *Section 4* of P.L. 27-88 states, with respect to the effective date of this Chapter:

Section 4. Chapter 104 of Title 11, Guam Code Annotated, [Subsection (d) of Section 3 of the Bill (on page 38)] shall be effective immediately; however, its provisions shall be enforced for those entities with existing licenses for ATMs only upon renewal of those licenses but not later than July 1, 2004.

§ 104101. Regulation.

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

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

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

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

(2) The entity submits a financial review, as may be required by the Board, of all shareholders holding more than five percent (5%) of the outstanding shares, whether voting or non-voting, of each class of common or preferred stock of the entity, all officers, all partners and any agents of the entity, and the entity's business tax

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returns, statements of net worth and liabilities, and proof of ability to support any liabilities to be incurred.

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

Name to social security number matches.

Criminal record checks.

Residency verification.

A check against a list provided by the Office of Foreign Assets Control in the United States Department of Treasury.

Business records check.

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

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

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

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

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

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

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licensing the entity. Such fee shall be deposited into the Banking and Insurance Enforcement Fund.

(e) Any entity issued a license under this Chapter other than an entity which is a financial institution, the deposits of which are insured by an agency or instrumentality of the United States of America, shall, as a condition to such license, furnish to and maintain with the Commissioner a surety bond, or cash deposit, in the amount of at least One Million Dollars (\$1,000,000) as security for all claims or demands that may be asserted and sustained against the entity holding the license and related in any way to an automated teller machine licensed to such entity, including, but not limited to, improper use of information derived from any transactions processed using an automated teller machine licensed to such entity.(f) Any Automated Teller Machine not operated by a bank or other Federally insured financial institutions shall display a disclaimer prominently in plain view on each machine that states the following:

‘THIS AUTOMATED TELLER MACHINE IS NOT OPERATED BY A
FEDERALLY INSURED FINANCIAL INSTITUTION.’

§ 104102. Penalties.

It shall be a misdemeanor punishable by a fine of not more than Twenty-Five Thousand Dollars (\$25,000) if any entity does any of the following:

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

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

§ 104103. Criminal Offender Record Information Requests.

(a) The Department may submit fingerprint images and related information to the U. S. Department of Justice with respect to the license application of an individual defined under § 104101(a) as an entity, for the purpose of obtaining information as to the existence and nature of a record of state and Federal convictions and arrests for which the U. S.

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Department of Justice establishes that the individual was released on bail or on his or her own recognizance pending trial.

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