

CHAPTER 6
BRANCH BANKS AND INTERNATIONAL BANKING
CORPORATIONS

§6101. Branch Banks.

§6102. International Banking Corporation Incorporated in United States.

§6103. [Repealed]

§6104. Off-Shore Lending Facility.

§6101. Branch Banks. (a) A bank engaging in the banking business on Guam pursuant to the provisions of this Title may operate one or more branch banks within Guam, subject to the approval of the banking board and upon demonstrating to the Board that (1) there is sufficient need for such branch, and (2) that the proposed branch has reasonable opportunity to be economically self-sustaining; provided, however, that after the effective date of this Act, no state or national bank may establish more than two (2) branches on Guam, except as may be provided by reciprocal arrangement with a state or territory of the United States, and those state or national banks licensed to engage in banking in Guam prior to the effective date of this Act and having more than two (2) branch banks in Guam prior thereto may maintain such additional branch banks but shall not establish any additional branch banks. The application to establish such branch bank shall be considered by the Board after public hearing at which all interested parties may present their reasons and any evidence in favor or against the establishment of said branch bank.

SOURCE: Amended by P.L. 12-8, effective March 23, 1973.

(b) No bank or any officer or director, agent, or employee thereof, shall except as provided in this Title open or maintain any branch in Guam, or engage in the business of banking at any place other than its principal place of business or its approved branches.

§6102. International banking corporations incorporated in United States. Any international banking corporation incorporated within any state, territory or possession of the United States may maintain a branch office within Guam, subject to the regulations of the banking board; provided however that such international banking corporation may not conduct a domestic banking business on Guam.

§6103. Repealed by P.L. 13-111, effective December 11, 1975.

§6104. Off-shore lending facility. (a) An off-shore lending facility is a bank office established on Guam solely for the purpose of recording for accounting purposes (i) loans made to borrowers outside of Guam by other offices of the same bank located outside of Guam, or (ii) loans made to borrowers outside of Guam by banks located outside of Guam who are correspondent banks of a bank in Guam which is authorized to operate an off-shore lending facility and (iii) deposits made by persons outside of Guam with other offices of the same bank located outside of Guam, or (iv) deposits made by persons outside of Guam with correspondent banks of a bank in Guam which is authorized to operate an off-shore lending facility.

(b) Before any bank may operate an off-shore lending facility in Guam, a written license authorized by the Banking Board and issued by the Commissioner shall first be obtained.

(1) Any bank authorized to conduct banking business in Guam under the provisions of this Title shall be issued a license under the filing by it of a verified statement with the Banking Board that it intends to establish and operate an off-shore lending facility and that such off-shore lending facility shall be operated in accordance with the provisions of this Title.

(2) Any bank not authorized to conduct banking business in Guam under the provisions of this Title may, subject to the regulations of the Banking Board, be issued a license after it has met the following requirements:

(i) It is authorized by its charter to transact the character of business described in §6104 and has complied with the laws of the jurisdiction under which it is incorporated.

(ii) It has filed with the Banking Board a certified copy of its charter or articles of incorporation and of its by-laws and a copy of an application for a commercial license pursuant to §§16101 and 16102 of this Code.

(iii) It has furnished to the Banking Board such proof of the nature and character of its business and its financial condition, stock ownership and management as it may require.

(iv) It has designated the Commissioner and his successor in office by a duly executed instrument in writing, its agent, upon whom process directed to the corporation may be served. The Commissioner shall forward by mail, postage prepaid, a copy of every process served upon him under the provisions of this subdivision, addressed to the manager or agent of such corporation at its principal place of business in this territory. For each copy of process, the Commissioner shall collect the sum of Twenty-Five Dollars (\$25) which shall be paid by the plaintiff or moving party at the time of service, to be recovered by him as a part of his cost.

(v) It has complied with all applicable requirements of the Civil Code of Guam relating to foreign corporations except matters specifically otherwise provided for in this Title.

(vi) Its manager or agent residing in this Territory has taken an oath that he will, as far as the duty devolves upon him, diligently and honestly administer the affairs of the corporation and will not knowingly violate or willfully permit to be violated any of the provisions of law applicable to the corporation and the oath, subscribed by the manager or agent taking it, has been transmitted to the Commissioner and filed in his office.

(vii) It has received from the License Board of the department a commercial license in accordance with §16100.1 of this Code.

(3) The license issued pursuant to this Subsection shall be for a term of five (5) years renewable for terms of five (5) years. The license fee for each five (5) year license period shall be Five Hundred Dollars (\$500.00) payable at the time an application

for licensure is filed with the Commissioner. If the license is not issued, the Five Hundred Dollars (\$500.00) fee shall be refunded to the applicant.

(c) No bank authorized to operate an off-shore lending facility in Guam shall permit any officer, employee or agent of the bank within Guam to actively solicit or negotiate any loan for an off-shore lending facility.

(d) Interest earned by a bank through the operation of an off-shore lending facility in Guam shall not be treated as Guam source income for tax purposes; (1) provided the bank has been authorized to operate an off-shore lending facility; and (2) provided there has been no violation of Subsection (c) of this Section.

(e) Interest paid by a bank to a depositor having funds on deposit with it through an off-shore lending facility shall not be treated as Guam source income for tax purposes (1) provided the bank has been authorized to operate an off-shore lending facility, (2) provided there has been no violation of Subsection (c) of this Section, (3) provided the depositor is not engaged in a trade or business within Guam, and (4) provided the depositor is not a citizen or resident of Guam.

(f) Each off-shore lending facility shall submit to the Banking Board twice in each calendar year a report of its condition as of such dates as it may fix. Such reports shall contain such information as the Banking Board may reasonably require to ascertain whether or not the off-shore lending facility is being operated in accordance with the provisions of this section, but such reports shall not extend to any of the activities of the bank other than those of the off-shore lending facility. This Subsection shall in no way impede or limit other powers of examination which exist pursuant to this Title or other provisions of law.

(g) In the event a court of competent jurisdiction shall, in any respect or with regard to any class of banks, hold invalid any provision contained in this Section, the invalidity shall not effect any other provision of this Section or the rights of other classes of banks. Upon a holding of invalidity, this Section shall be construed as if the invalid provision had never been contained herein or had never been made applicable to the other classes of banks.

SOURCE: Added by P.L. 15-11, effective March 20, 1979.