

**OFFICE OF THE GOVERNOR
GOVERNMENT OF GUAM
AGANA, GUAM**

EXECUTIVE ORDER NO. 86-19

**DEPARTMENT OF REVENUE AND TAXATION RULES AND
REGULATIONS REGARDING THE FORMATION AND
OPERATION OF CAPTIVE INSURANCE COMPANIES**

WHEREAS, Chapter VII, Title XXXIX of the Government Code of Guam, enacted by Public Law 17-85, Section 43714, enables the Insurance Commissioner to establish rules relating to Captive Insurance Companies as are necessary to enable him to carry out the provisions of this Chapter; and

WHEREAS, the Administrative Adjudication law requires an agency to hold public hearings before adopting a regulation; and

WHEREAS, a duly noticed hearing was held on June 5, 1986, at 10:00 a.m. in the Director's Conference Room, Department of Revenue and Taxation, to consider the Proposed Captive Insurance Company Regulations; and

WHEREAS, a testimony was presented at hearing by an insurance company's legal counsel in support of the proposed Captive Insurance Regulations and to the effect that, with minor changes as to form, the proposed regulations would serve the public interest; and

WHEREAS, an issue arose at that hearing whether Section 43713(b) of P.L. 17-85, the Act permitting formation of Captive Insurance Companies on Guam, is violative of the Organic Act because it exempts Captive Insurance Companies from the Territorial Income Tax Code; and

WHEREAS, an opinion of the Attorney General of Guam concluded that Section 43713(b) of P.L. 17-85 is not violative of the Organic Act because it does not exempt Captive Insurance Companies from Territorial Income Taxation; and

WHEREAS, the Proposed Regulations were amended to indicate clearly that the Section 43713(b) exemption from local taxes does not exempt Captive Insurance from the Territorial Income Tax Code; and

WHEREAS, I have determined that the proposed regulations as so revised are appropriate and should now be promulgated;

NOW, THEREFORE, I, RICARDO J. BORDALLO, Governor of Guam, by the authority vested in me by Section 43714 of Public Law 17-85, and by the Organic Act of Guam, do hereby approve and promulgate the attached rules and regulations regarding the information and operation of Captive Insurance Companies.

SIGNED AND PROMULGATED at Agana, Guam, this 11th day of September, 1986.

RICARDO J. BORDALLO
Governor

COUNTERSIGNED:



EDWARD D. REYES
Lieutenant Governor

PROPOSED CAPTIVE INSURANCE COMPANY
REGULATIONS FOR THE GOVERNMENT OF GUAM

Captive Insurance Regulations
of the Insurance Commissioner of Guam

CHAPTER A. DEFINITIONS

In these regulations, unless the context requires otherwise,

(a) "The Act" means Chapter VII of Title XXXIX of the Government Code of Guam.

(b) "Affiliated company" or "affiliate" means any company in the same corporate system as a parent or member organization by virtue of common ownership, control, operation or management.

(c) "Association" means any legal association of individuals, corporations, partnerships, or other legal entities, the member organizations of which collectively:

(1) own, control, or hold with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer, or

(2) have complete voting control over an association captive insurance company incorporated as a mutual insurer.

(d) "Association captive insurance company" means any company that insures risks of the member organizations of that association, and their affiliates.

(e) "The Commissioner" means the Insurance Commissioner of the Government of Guam.

(f) "Company" or "captive insurance company" means any pure captive insurance company or association captive insurance company formed or licensed under the provisions of the Act.

(g) "Control" means:

(1) ownership of more than 50% of the voting stock of a corporation,

(2) ownership of stock of a corporation constituting more than 50% of the fair market value of all of said corporation's issued and outstanding shares,

(3) a contractual or other right to vote shares constituting more than 50% of the voting shares of a corporation,

(4) the right under a management agreement or other contract to make decisions governing the business and financial affairs of a corporation or to select all of its officers or directors, or

(5) any other right or arrangement that separately or in conjunction with other rights creates the practical ability to

determine the business and financial affairs of a corporation or to select its officers or directors.

(h) "Corporate system" means one or more chains of corporations connected through stock ownership or other means of control comprising a common parent corporation and one or more subsidiary corporations in which:

(1) the common parent directly controls at least one of the subsidiary corporations and

(2) each of the subsidiary corporations is directly controlled by the common parent, by one or more subsidiary corporations, or by the common parent and one or more subsidiary corporations.

(i) "License" means a license to carry on the business of a captive insurance company which the Commissioner is authorized to grant in accordance with the criteria set forth in the Act.

(j) "Loss reserve specialist" means a person approved by the Commissioner under Chapter B(1)(f) and Chapter C(3)(E) of these regulations as a person qualified to assess the sufficiency of insurance loss reserves and loss expense reserves for captive insurance companies under the Act.

(k) "Member organization" means a corporation, partnership, or other legal entity that belongs to an association.

(l) "Pure captive insurance company" means any company that insures risks of its parent and affiliates and no more than three unaffiliated companies.

(m) "Regulation" means any regulation promulgated under the Act.

CHAPTER B. APPLICATION PROCEDURE FOR CAPTIVE INSURANCE LICENSE

1. Contents of Application

Every applicant for a captive insurance license shall pay the \$200.00 statutory application fee and file the following documents with the Commissioner:

a. A certified copy of the articles of incorporation of the company, but if the company is not yet incorporated, a copy of the proposed articles of incorporation of the company.

b. A certified copy of the by-laws of the company, but if the company is not yet incorporated, a copy of the proposed by-laws of the company.

c. Copies of blank forms of all policies of insurance or reinsurance that the company proposes to use.

d. A consent of agent for service of process, in form approved by the Commissioner, duly executed by a person qualified to be a registered agent for service of process, as provided in Section 43702(b)(4) of the Act and in Section 3 of Chapter D of these regulations.

e. An application for approval of the company's designated Independent Auditor as required under Section 43708 of the Act, submitted on Form C attached as Appendix 3 to these regulations.

f. An application for approval of the company's designated Loss Reserve Specialist as required under Chapter C(3)(E) of these regulations, submitted on Form D attached as Appendix 4 to these regulations.

g. A license application in the following attached form:

GOVERNMENT OF GUAM
CAPTIVE INSURANCE LICENSE APPLICATION

1. Name of Proposed Captive: _____
2. Type of Captive: Pure _____
Association (Stock) _____
Association (Mutual) _____
3. Type of Insurance: Life _____
Casualty _____
Professional Liability _____
Products Liability _____
4. Place of Incorporation: _____
5. Address of Guam Office: _____
6. Name and Address of Guam Resident Incorporator: _____

7. Name and Address of Guam Resident Director: _____

8. Amount of Paid In Capital: \$ _____
9. Contributed Surplus: \$ _____
10. Name and Addresses of the Shareholders:
(1) _____
(2) _____
(3) _____

FORM B, ATTACHED AS APPENDIX 2 TO THESE REGULATIONS, MUST BE SUBMITTED WITH THIS APPLICATION FOR EACH SHAREHOLDER OF THE COMPANY.

11. Enclose Financial Statements and Three Bank References for Each Shareholder, or Member, or Organization.
12. Name and Address of Registered Agent in Guam:

13. If the Proposed Captive is not yet Incorporated, Names and Addresses of Incorporators:

14. Name and Address of Company's Proposed Independent Auditor:

FORM C, ATTACHED AS APPENDIX 3 TO THESE REGULATIONS, MUST BE SUBMITTED WITH THIS APPLICATION FOR THE COMPANY'S PROPOSED INDEPENDENT AUDITOR.

15. Name and Residence Address of the Directors of the Company:

FORM B, ATTACHED AS APPENDIX 2 TO THESE REGULATIONS, MUST BE SUBMITTED WITH THIS APPLICATION FOR EACH DIRECTOR OF THE COMPANY.

16. Name and Business Address of the Officer of the Company:

President: _____

Vice President: _____

Treasurer: _____

FORM B, ATTACHED AS APPENDIX 2 TO THESE REGULATIONS, MUST BE SUBMITTED WITH THIS APPLICATION FOR EACH OFFICER OF THE COMPANY. PLEASE ATTACH AN EXHIBIT WITH THE NAMES AND BUSINESS ADDRESSES OF ANY ADDITIONAL OFFICERS OF THE COMPANY.

17. Name and Addresses of Company's Proposed Loss Reserve Specialist:

FORM D, ATTACHED TO THESE REGULATIONS AS APPENDIX 4, MUST BE SUBMITTED WITH THIS APPLICATION FOR THE COMPANY'S PROPOSED LOSS RESERVE SPECIALIST.

18. Detailed Statement of Proposed Business Plan, Including:

- (i) Five year projection of type of risk and party(ies) to be insured;
- (ii) Five year projection of net annual premium income;
- (iii) Five year projection of maximum retained risk (per loss and annual aggregate);
- (iv) Five year projection of income and loss;
- (v) Five year projection of premium tax payments to Guam;
- (vi) Actuarial feasibility study of planned operation;
- (vii) Statement of Rating Program;
- (viii) Statement of Reinsurance Program;

- (ix) Five year projection of the amount and liquidity of assets relative to the proposed risks assumed;
 - (x) Five year projected balance sheet.
19. Attach a description showing the adequacy of the loss prevention program of each parent, affiliate, or member corporation or organization that the company proposes to insure.
 20. Attach a proposed letter of credit or depository agreement for deposit of capital and surplus.
 21. If the company has been incorporated, attach a statement of its financial condition that is sworn to under oath by the company's president and its secretary.
 22. Certificate of the Truth of all of the matters contained in the application signed by each director.

2. Review of Applications and Issuance of Licenses

(a) The Commissioner shall review each application submitted by a company that has already been incorporated to determine whether the company meets the requirements of the Act. The Commissioner shall notify each applicant in writing of his approval or disapproval of the application. Within 30 days after the Commissioner shall notify an applicant of the approval of the application, the company shall pay the \$300 license fee required by Section 43702(d) of the Act and shall provide the Commissioner with proof of compliance with Sections 43704 and 43705 of the Act, either in the form of cash or an irrevocable letter of credit issued by a bank either chartered by the Territory of Guam or a member bank of the Federal Reserve System, and in either case, such bank to be approved by the Commissioner.

(b) An application submitted for a company that has not been incorporated shall be deemed to include a petition for the certificate required by Section 43706 of the Act in order to incorporate the company. The Commissioner shall, upon review of the application, notify the applicant in writing of his approval or disapproval of the application. If the Commissioner approves the application, the notice of approval shall include a certificate setting forth his findings that the establishment and maintenance of the proposed corporation will promote the general good of Guam, as required by Section 43706 of the Act. Within 60

days after, the Commissioner shall notify the applicant of the approval of the application, the applicant shall:

(i) transmit the articles of association to the Director of Revenue and Taxation,

(ii) provide the Commissioner with certified copies of the articles of association and by-laws of the company, in the form approved by the Commissioner, and a certificate of incumbency of the officers and directors of the company,

(iii) pay the \$300 license fee required by Section 43702(d) of the Act,

(iv) provide the Commissioner with a statement of the financial condition of the company that is sworn to under oath by the company's president and secretary and is acceptable to the Commissioner, and

(v) provide the Commissioner with proof of compliance with Sections 43704 and 43705 of the Act, either in the form of cash or an irrevocable letter of credit issued by a bank either chartered by the Territory of Guam or a member bank of the Federal Reserve System, and in either case, such bank to be approved by the Commissioner.

(c) Any insurance company that was chartered and doing business in Guam on the date of enactment of the Act may apply to convert its existing license to a license under Section 43702(b)(5) and Section 43702(e) of the Act by submitting to the Commissioner, on or before December 31, 1986, all documents required pursuant to Section 1 of this Chapter, including a completed application form as set forth in Chapter B(1)(g) and all other documents required in the application form, together with a statement that the company intends to conduct its business in compliance with the requirements of the Act and to surrender its existing license to engage in the insurance business in Guam upon the issuance of the license under the Act. Payment of the application fee of \$200 and the license fee of \$300 required by Section 43702(d) of the Act, shall accompany the application. The Commissioner shall automatically issue the license, unless he determines that the company does not propose to operate in a manner that complies with the Act. If the Commissioner does not issue the license, he shall notify the applicant of his decision in writing and shall refund the \$300 license fee to the applicant. In such event, the applicant's existing license shall remain in full force and effect. The application procedure set forth in this subsection shall be the exclusive means by which any company referred to in Section 43702(b)(5) or in Section 43702(e) of the Act may exercise its right of automatic qualification for licensure under the Act. Any such company that elects

to convert its license to a license under the Act shall be subject to all of the requirements and limitations imposed by the Act and by these regulations.

(3) Renewal Applications

All licenses granted under the Act shall expire on the April 1 following the date of issuance. On or before March 1 of each year, every company holding a license that wishes to renew the license for an additional year shall apply to the Commissioner for a renewal of the license. The renewal application shall consist of a letter identifying the company and stating that it is applying to renew its license. Letters of credit or extensions of existing letters of credit or other documents which establish to the satisfaction of the Commissioner that the company continues to comply with the requirements of Sections 43704 and 43705 of the Act and expiring not later than the end of the year for which renewal of the license is sought, together with a check for the \$300 annual license fee required by Section 43702(d) of the Act shall be included with the application. Each application for a renewal license shall be deemed to be granted unless the Commissioner notifies the applicant in writing that it has been rejected.

CHAPTER C. ANNUAL REPORT AND AUDIT REQUIREMENTS

The purpose of this regulation is to set forth the financial and reporting requirements which the Commissioner deems necessary for the regulation of captive insurance companies, as required by Sections 43707 and 43708 of the Act.

1. Annual Audit

Every company that is licensed under the Act shall have an annual audit by its appointed Independent Auditor, as approved by the Commissioner, and shall file such audited financial report with the Commissioner on or before the last day of the sixth month following the end of the company's annual accounting period. The audited report shall be accompanied by a verification of two executive officers of the company, and it shall constitute the report of financial condition required by Section 43707 of the Act to be filed on or before the succeeding March 1.

2. Unqualified Opinion

The audited report shall include an unqualified opinion with respect to the financial condition of the company. An auditor, who has rendered other than an unqualified opinion on the financial condition of a captive insurance company or who is aware

that captive insurance company to meet the necessary capital and surplus requirements of the Act and the captive insurance company shall both notify the Commissioner in writing within fifteen days of the issuance of such opinion or of the discovery of failure to meet the capital or surplus requirements of the Act.

3. Report Form

The annual audit report shall consist of the following:

(A) Opinion of Independent Certified Public Accountant

(a) Financial statements furnished pursuant to this section shall be examined by Independent Auditor in accordance with generally accepted auditing standards as determined by the American Institute of Certified Public Accountants.

(b) The opinion of the Independent Auditor shall cover all years presented.

(c) The opinion shall be addressed to the company on stationery of the Independent Auditor showing the address of issuance, shall bear original manual signatures and shall be dated.

(d) The opinion shall contain an evaluation of management experience, ability and control.

(B) Report of Evaluation of Internal Controls

(a) This report shall include an evaluation of the internal controls of the company relating to the methods and procedures used in the securing of assets and reliability of the financial records, including but not limited to such controls as the system of authorization and approval and the separation of duties.

(b) The review shall be conducted in accordance with generally accepted auditing standards. The report must be filed with the Commissioner.

(C) Letter of Independent Auditor

The Independent Auditor shall furnish the company, for inclusion in the filing of the audited annual report, a letter stating:

(a) That he is independent with respect to the company and conforms to the standards of his profession as contained in the Code of Professional Ethics and pronouncements

of the American Institute of Certified Public Accountants and pronouncements of the Financial Accounting Standards Board.

(b) The general background and experience of the staff engaged in audit including the experience in auditing captives or other insurance companies.

(c) That the accountant understands that the audited annual report and his opinions thereon will be filed in compliance with this regulation with the Commissioner.

(d) That the accountant consents to the requirements of Section 6 of this Chapter C of the regulations and that the accountant consents and agrees to make available for review by the Commissioner, his designee or his appointed agent, the work papers as defined in Section 6.

(e) That the accountant is properly licensed by the Territory of Guam or another appropriate state licensing authority as approved by the Commissioner and that he is a member in good standing in the American Institute of Certified Public Accountants.

(D) Financial Statements

Statements required shall be as follows:

- (a) Balance Sheet
- (b) Statement of gain or loss from operations
- (c) Statement of changes in financial position
- (d) Statement of changes in capital paid up,
gross paid in and contributed surplus and unassigned funds
(surplus)
- (e) Notes to financial statements

The notes to financial statements shall be those required by generally accepted accounting principles, and shall include:

- (1) A reconciliation of differences, if any, between the audited financial report and any other statement or form filed with the Commissioner.

(2) A summary of ownership and relationship of the company and all affiliated corporations or companies insured by the captive.

(3) A narrative explanation of all material transactions and balances with the company.

(E) Certification of Loss Reserves and Loss Expense Reserves

The annual audit shall include an opinion by the company's designated Loss Reserve Specialist as to the adequacy of the company's loss reserves and loss expense reserves.

The individual who certifies as to the adequacy of reserves shall be approved by the Commissioner and shall be a member of the Casualty Actuarial Society with three years of property and casualty loss and loss expense reserve evaluation experience, or a member in good standing of the American Academy of Actuaries with five years of property and casualty loss and loss expense reserve evaluation experience.

Certification shall be in such form as the Commissioner deems appropriate.

(F) Summary of Underwriting and Reinsurance Ceded

The annual audit shall include a summary of all of the insurance underwritten and reinsurance ceded during the year including a statement of the percentage of each premium attributable to the insurance of an affiliated company.

4. Change of Independent Auditor

Each company that is licensed under the Act shall notify the Commissioner in writing of any change in the Independent Auditor appointed by the company. The change appointment of the Independent Auditor shall be deemed to be approved by the Commissioner unless notice is given to the company, within sixty days after receipt of the notice by the Commissioner's office, that the auditor is not approved, in which case the company shall appoint a substitute and notify the Commissioner of the substitute auditor which substitute shall be subject to the approval of the Commissioner under this subsection.

5. Notice of Adverse Financial Condition

Each company that is licensed under the Act shall require its Independent Auditor to immediately notify in writing an officer of the company and all members of the Board of Directors

of the company of any determination by the Independent Auditor that the company has materially misstated its financial condition in any of its reports to the Commissioner. The company shall furnish such notification to the Commissioner within five working days of receipt thereof.

6. Access to and Maintenance of Working Papers of Independent Auditor

Each company that is licensed under the Act shall require its Independent Auditor to make available for review by the Commissioner or his appointed agent the work papers prepared in the conduct of the audit of the company. The company shall require that the Independent Auditor retain the audit work papers for a period of not less than five years after the period reported upon.

The aforementioned review by the Commissioner shall be considered investigations, and all work papers obtained during the course of such investigations shall be confidential. The company shall require that the Independent Auditor provide photocopies of any of the work papers which the Commissioner considers relevant. Such work papers may be retained by the Commissioner.

"Work Papers" as referred to in this section include, but are not necessarily limited to, schedules, analyses, reconciliations, abstracts, memoranda, narratives, flow charts, copies of company records or other documents prepared or obtained by the accountant and his employees in the conduct of their examination of the company.

7. Security

Whenever the Commissioner deems that the financial condition of the company warrants additional security, he may require a company to deposit with the Treasurer of Guam or an escrow agent approved by the Commissioner cash or securities approved by the Commissioner or, alternatively, to furnish the Commissioner a clean irrevocable letter of credit issued by a bank chartered by the Territory of Guam or a member bank of the Federal Reserve System, and, in either case, such bank to be approved by the Commissioner.

The company may receive interest or dividends from said deposit or exchange the deposits for others of equal value with the approval of the Commissioner.

If such company discontinues business and surrenders its license, the Commissioner shall return such deposit only after being satisfied that all obligations of the company have been discharged.

CHAPTER D. OTHER REQUIREMENTS AND RESTRICTIONS

This Chapter contains interpretations of various additional requirements and restrictions applicable to captive insurance companies.

1. Annual Meeting of the Board of Directors on Guam.

(a) To fulfill the requirements of Section 43702(b)(2) of the Act, requiring the Board of Directors of each captive insurance company to hold at least one meeting each year on Guam, a quorum of the Board of Directors, consisting of a majority of the whole number of directors, shall be physically present on Guam for the meeting. The year referred to in this provision shall be the company's annual accounting period.

(b) For companies that qualify as captive insurance companies under Sections 43702(b)(5) and 43702(e) of the Act, a copy of the minutes of the annual meeting of the Board of Directors shall be filed with the Commissioner within thirty days after such meeting.

2. Principal Place of Business.

(a) To fulfill the requirements of Section 43702(b)(3) of the Act, requiring that a captive insurance company maintain

its principal place of business in Guam, a company must have an office in Guam in which it maintains its business and corporate records, financial books, copies of all insurance policies that it issues and copies of its audited financial reports. A captive insurance company may establish its principal office in Guam in office space that it shares with other businesses, including other captive insurance companies or affiliates of the captive insurance company, or it may locate its principal place of business in an office in Guam of a company that engages in the business of managing the business affairs of captive insurance companies.

(b) For companies that qualify as captive insurance companies under Sections 43702(b)(5) and 43702(e) of the Act, such company shall be required to maintain an office in Guam in which it maintains copies of its business and corporate records, financial books, copies of all insurance policies that it issues, and copies of its audited financial reports. For companies qualifying under Sections 43702(b)(5) and 43702(e) of the Act, such office in Guam may be an office space that it shares with other businesses, including other captive insurance companies or affiliates of the captive insurance company, or it may locate its office as required under this section in an office in Guam of a company that engages in the business of managing the business affairs of captive insurance companies.

3. Resident Registered Agent for Service of Process.

The registered agent of a licensed captive insurance company shall be either an individual who resides in Guam or a corporation formed on Guam or a partnership formed on Guam that maintains an office in Guam that is regularly open for business during normal business hours. Each captive insurance company licensed under the Act shall notify the Commissioner in writing within 30 days of any change in the address of its registered agent for service of process.

4. Extension of Period Between Examinations.

Under Section 43708 of the Act, requiring that the Commissioner make an examination of the affairs of each captive insurance company at least once every three years, but the Commissioner has the right, upon application, to enlarge the three year period to five years upon application, provided that certain conditions are met, each captive insurance company shall apply for such an enlargement of the examination period either at the time of application for licensure, within 30 days after the issuance of the license, or by request made in writing accompanying the company's annual audit report. If the Commissioner grants the application, the enlargement of the examination period

to five years shall remain in effect until the Commissioner, in his discretion, revokes his consent to the enlargement of said period in writing.

5. Restrictions on Insurance of Direct Risks by Captive Insurance Companies.

(a) Section 43702(a)(1) of the Act, limiting the insurance of risks by pure captive insurance companies, applies only to direct insurance of risks and not to reinsurance, which is governed by Section 43702(a)(3) of the Act and Chapter D(6) of these regulations. A pure captive insurance company shall not insure any direct risk of any entity other than its parent and three affiliates of the captive insurance company, except that it may insure risks of three unaffiliated companies, provided that at least 60% of its premium income during each calendar year shall be derived from its parent and affiliates. For purposes of applying the amount of 60% requirement, the premiums derived by a captive insurance company shall be the gross amount of premiums for direct insurance, and it shall not be increased reduced by the amount of any reinsurance provided or ceded by the captive insurance company.

(b) Section 43702(a)(2) of the Act, limiting the insurance of risks by an association captive insurance company to risks of its member organizations and of affiliates of its member

organizations, does not apply to reinsurance, which is governed by Section 43702(a)(3) of the Act and Chapter D(6) of these regulations.

6. Reinsurance.

(a) Any captive insurance company authorized to do business under the Act may take credit for reserves on risks ceded to a reinsurer subject to the following limitations:

(1) No credit shall be allowed for reinsurance where the reinsurance contract does not result in the complete transfer of the risk or liability to the reinsurer.

(2) No credit shall be allowed, as an asset or a deduction from liability, to any ceding insurer for reinsurance unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contract reinsured without diminution because of the insolvency of the ceding insurer.

(3) No credit shall be allowed for reinsurance ceded unless the reinsurer and amount of reinsurance has been approved by the Commissioner annually.

(b) Reinsurance under this section shall be effected through a written agreement of reinsurance setting forth the terms, provisions and conditions governing such reinsurance.

The Commissioner in his discretion shall require that complete copies of all reinsurance treaties and contracts be filed and/or approved by him.

7. Insurance Managers and Intermediaries.

No person shall, in or from within this Territory, act as an insurance manager, broker, agent, salesman, or reinsurance intermediary for captive business without the authorization of the Commissioner. Application for such authorization must be on a form prescribed by the Commissioner.

8. Directors.

Every company shall report to the Commissioner within thirty days after any change in its executive officers or directors, including in its report a statement of the business and professional affiliations of any new executive officer or director.

No director, officer, or employee of a company shall, except on behalf of the company, accept, or be the beneficiary

of, any fee, brokerage, gift, or other emolument because of any investment, loan, deposit, purchase, sale, payment or exchange made by or for the company but such person may receive reasonable compensation for necessary services rendered to the company in his or her usual private, professional or business capacity.

Any profit or gain received by or on behalf of any person in violation of this section shall inure to and be recoverable by the company.

9. Conflict of Interest.

In addition to the investment of funds limitation in Section 8 of Chapter D of these regulations, each company licensed under the Act is required to adopt a conflict of interest statement for officers, directors and key employees. Such statement shall disclose that the individual has no outside commitments, personal or otherwise, that would divert him from his duty to further the interests of the company he represents but this shall not preclude such person from being a director or officer in more than one insurance company.

Each officer, director, and key employee shall file such disclosure with the Board of Directors yearly.

10. Rescission of Captive License.

The Commissioner may, subject to the provisions of this section, by order rescind the license of the company:

(1) if the company has not commenced business according to its plan of operation within two years of being licensed; or

(2) if the company ceases to carry on insurance business in or from within Guam; or

(3) at the request of the company; or

(4) for any reason provided in Section 43709 of the Act.

Before the Commissioner rescinds the license of a company under (1) or (2), the Commissioner shall give the company notice in writing of the grounds on which he proposes to cancel the license, and shall afford the company an opportunity to make objection in writing within the period of ten days after receipt of notice. The Commissioner shall take into consideration any objection received by him within that period and, if he decides to cancel the license, cause the order of cancellation to be served on the company.

11. Acquisition of Control of or Merger with Domestic Company.

No person other than the issuer shall make a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire, or acquire in the open market or otherwise, any voting security of a domestic if, after the consummation thereof, such person would, directly or indirectly (or by conversion or by exercise of any right to acquire) be in control of such company; and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic company without the prior written approval of the Commissioner. In considering any application for acquisition of control or merger with a domestic company, the Commissioner shall consider all of the facts and circumstances surrounding the application as well as the criteria for establishment of a company set out in this chapter.

12. Change of Business.

(a) Any change in the nature of the captive business from that stated in the company's plan of operation filed with the Commissioner upon application, specifically, any change in the following:

(i) Five year projection of type of risk and party(ies) to be insured;

(ii) Five year projection of net annual premium income;

(iii) Five year projection of maximum retained risk (per loss and annual aggregate);

(iv) Five year projection of income and loss;

(v) Five year projection of premium tax payments to Guam;

(vi) Actuarial feasibility study of planned operation;

(vii) Statement of rating program;

(viii) Statement of reinsurance program;

(ix) Five year projection of the amount and liquidity of assets relative to the proposed risks assumed;

(x) Five year projected balance sheet,

requires prior approval from the Commissioner. A licensed captive insurance company shall apply for approval of change in

the nature of the business by submitting to the Commissioner a letter requesting approval of its "amended statement of proposed business plan" setting forth the changes in the company's original plan as approved in the initial application.

(b) Any change in any other information filed with the application must be filed with the Commissioner but does not require prior approval.

13. Tax on Premiums Collected.

Section 43713(b) of the Act, exempting captive insurance companies from local taxes except tax imposed by Section 43713(a) of the Act, does not apply to territorial income taxes collected under Section 31 of the Organic Act of Guam, 48 U.S.C. §1424i for as long as said section remains in effect. Section 43713(b) refers to local taxes only and every captive insurance company licensed under the Act shall remain subject to the Territorial Income Tax Code as enacted by Section 31 of 48 U.S.C. §1421i for so long as said section remains in effect.

APPENDIX 1

FORM A

SAMPLE LETTER OF CREDIT FORM

CAPTIVE INSURANCE COMPANY
IRREVOCABLE LETTER OF CREDIT

(ADDRESS)
TERRITORY OF GUAM

Letter of Credit No. (000001)

Date: _____

Commissioner of Insurance
Government of Guam

Commissioner:

1. We hereby establish our IRREVOCABLE LETTER OF CREDIT in your favor for the account of (Guam Captive Insurance Company) up to the aggregate amount of (\$_____) available by your draft(s) drawn on us, at sight, bearing the number of this IRREVOCABLE LETTER OF CREDIT No. (000001). This LETTER OF CREDIT shall expire at our Letter of Credit Department, Guam, at our close of business on July 31, 1986, unless as hereinafter extended.
2. This LETTER OF CREDIT is issued to satisfy the provisions of Section 43704 of Chapter 7, and on behalf of the above mentioned (Guam Captive Insurance Company) which is applying for a certificate of authority to engage in the insurance business in the Territory of Guam as a captive insurance company.

3. It is a condition of the LETTER OF CREDIT that it shall be automatically extended for additional periods, each of one year, unless at least ninety calendar days prior to the then relevant expiration date we have advised you in writing that we elect not to extend. In that event, you may draw hereunder, up to the full amount then available hereunder, against your sight draft(s) on us, bearing the number of this LETTER OF CREDIT.

4. It is a further condition of this LETTER OF CREDIT that each automatic extension shall be measured from the then relevant expiration date or relevant expiration date, even though such date be not a business day in the Territory of Guam for this Bank. It is also a condition of this LETTER OF CREDIT that, for the purpose of drawing hereunder, if the then relevant expiration date is a nonbusiness day for our Bank, drawing may be made not later than our next immediately following business day.

5. This LETTER OF CREDIT sets forth in full the terms of our undertaking, and such undertaking shall not in any way be modified, amended or amplified by reference to any note, document, instrument or agreement referred to herein or in which this LETTER OF CREDIT relates and any such reference shall not be deemed to incorporate herein by reference any note, document, instrument or agreement.

6. Each sight draft so drawn and presented shall be promptly honored by us if presented on or prior to the above stated expiration date or any extension thereof as above provided.

Very truly yours,

APPENDIX 2

FORM B

BIOGRAPHICAL DATA AFFIDAVIT
FOR SHAREHOLDERS, DIRECTORS AND OFFICERS

BIOGRAPHICAL DATA AFFIDAVIT
(Print or Type)

Name and Address of Company: _____

In connection with the above named company, I herewith make representations and supply information about myself as hereinafter set forth. (Attach addendum or separate sheet if space hereon is insufficient to answer any question fully.) IF ANSWER IS "NONE" OR "NO EXCEPTIONS, SO STATE.

1. Affiant's Full Name: _____

Marital Status: _____ Social Security No. _____

2. Other Names Used at Any Time: _____

3. Date of Birth: _____ Place of Birth: _____

Color of Hair: _____ Color of Eyes: _____ Weight: _____

4. Education and Degrees:

High School: _____

College: _____

Graduate or Professional: _____

(LIST ALL EDUCATIONAL INSTITUTIONS AND LOCATIONS ON ADDITIONAL SHEET, IF NECESSARY.)

5. Member of Professional Societies or Associations (List): _____

6. I control directly or indirectly, or own legally or beneficially, 10% or more of the outstanding shares (in voting power) of the following insurers: _____

6a. If any of the above stock is pledged or hypothecated in any way, please detail fully: _____

7. Present Chief Occupation: _____

Position or Title: _____ How Long? _____

Employer's Name: _____

Employer's Address: _____

How long with this employer? _____ Where? _____

8. Other jobs, positions, directorates, or officerships concurrently held at present: _____

9. Complete Employment Record for Past 20 Years:

<u>DATES</u>	<u>EMPLOYER AND ADDRESS</u>	<u>TITLE</u>

10. For the last 10 years, I have lived at the following address or addresses:

<u>ADDRESS</u>	<u>CITY</u>	<u>DATES</u>

11. I have never been adjudicated as bankrupt, except as follows:

12. I have never been convicted or had a sentence imposed, suspended or had pronouncement of a sentence pardoned for conviction of, or pleaded guilty of or nolo contendere to any information or an indictment charging a felony for embezzlement, theft or larceny, mail fraud, or violating any corporate securities statute or any insurance law, nor have I been the subject of cease and desist order of any federal or state securities regulatory agency, except as follows:

13. During the last 10 years, I have neither been refused a professional, occupational, or vocational license issued by any public or governmental licensing agency or regulatory authority, nor has such a license held by me ever been suspended or revoked, except as follows:

13a. I presently hold or have held in the past the following professional, occupational, or vocational licenses issued by a public or governmental licensing agency or authority (state date license issued, insurer or license, date terminated, reason for termination):

14. I have never been an officer, director, trustee, investment committee member, key employee, or controlling stockholder of an insurer which, while I occupied any such position or capacity with respect to it, became insolvent or was placed in conservatorship, or was enjoined from or ordered to cease and desist from violating any securities or insurance law, except as follows:

15. The certificate of authority or license to do business of any insurance company of which I was an officer or key management person has never been suspended or revoked while I occupied such position, except as follows:

16. No insurer of which I was an officer, director, or key management person at the time has ever been denied or refused or voluntarily withdrawn its application for a license or certificate of authority, except as follows:

Dated and signed this _____ day of _____,

at _____

I hereby certify under penalty of perjury that the following statements are true and correct to the best of my knowledge and belief.

(Signature of Affiant)

SUBSCRIBED AND SWORN TO BEFORE ME this _____ day of _____, 1986.

(Notary Public)

APPENDIX 3

FORM C

APPLICATION FOR AUTHORIZATION AS
INDEPENDENT AUDITOR FOR
CAPTIVE INSURANCE COMPANY

GOVERNMENT OF GUAM
DEPARTMENT OF BANKING AND INSURANCE

APPLICATION FOR AUTHORIZATION
AS AN
INDEPENDENT AUDITOR
FOR
CAPTIVE INSURANCE COMPANY

To the Commissioner of Banking and Insurance, Government of Guam

I hereby apply for authorization as a/an:

Individual Partnership Corporation Other

for the transacting of audits as required under Chapter C of these regulations for Captive Insurance Companies.

IF APPLICANT IS AN INDIVIDUAL

1. Full Legal Name: _____
2. Business Address: _____ Telephone: _____
3. (a) Residence Address: _____
(b) Date of Birth: _____ (c) Social Security No. _____
(d) Education and Degree:
High School: _____
College: _____
Graduate or Professional: _____
4. List all insurance and/or captive auditing experiences for past 15 years: (Attach additional sheets as necessary)

5. Has applicant ever been arrested, or indicted for and/or convicted of any crime or offense other than a traffic violation? _____
If "yes" submit full particulars of each case and disposition thereof.

6. I control directly or indirectly, or own legally or beneficially the outstanding stock of the following insurers: _____

7. Do you currently hold or have you held any type of insurance license?

 (TYPE) (STATE) (EXPIRATION DATE)
8. Have you ever had a license or privilege refused or revoked by any Insurance Department? If so, give details. _____

9. Are you currently licensed by the Territory of Guam as a CPA? _____
10. Has your license as a CPA in this Territory or any State of the United States ever been suspended or revoked? _____ If so, give details.

IF APPLICANT IS OTHER THAN AN INDIVIDUAL

11. Name of Partnership, Corporation, etc.: _____
 Business Address: _____
 Federal I.D. # _____ Telephone No. _____
12. List of insurance and/or auditing experience for past 15 years: (Attach additional sheets as necessary)

13. Indicate insurance experience of partner, manager, supervisor, etc. of individual(s) responsible for auditing of captive(s): _____

14. Will you assign only individuals that have a minimum of two years insurance auditing experience? Yes No

I hereby certify that I will immediately notify in writing an officer of the company and all members of the Board of Directors of the company of any determination by me that the company has materially misstated its financial condition in any of its reports to the Commissioner.

I hereby certify that I have read and understand all of the requirements and provisions of Guam Insurance Regulation Chapter C(6) relating to Captive Insurance Companies, and will fully comply therewith.

(NO FEE REQUIRED)

Signed _____

Dated _____

SUBSCRIBED AND SWORN TO before me this _____ day of _____,
19 _____.

Signature of Notary Public _____

NOTARY SEAL

Notary Public authorized by law of the
Territory of Guam to administer oaths.
My commission expires on _____.

APPENDIX 4

FORM D

APPLICATION FOR AUTHORIZATION
AS CAPTIVE INSURANCE COMPANY
LOSS RESERVE SPECIALIST

GOVERNMENT OF GUAM
DEPARTMENT OF BANKING AND INSURANCE

APPLICATION FOR AUTHORIZATION
AS CAPTIVE INSURANCE COMPANY
LOSS RESERVE SPECIALIST

To the Commissioner of Banking and Insurance, Government of Guam.

I hereby apply for authorization to certify as to the adequacy of loss reserves and loss expense reserves as required by the Captive Insurance Regulations.

INDIVIDUALS ONLY MAY APPLY

1. Full Legal Name: _____

2. Residence Address: _____
(Street) (City or Town) (State) (Zip)

3. (a) Date of Birth: _____ (b) Social Security No. _____

4. Education and Degree:

High School: _____

College: _____

Graduate or Professional: _____

LIST ALL EDUCATIONAL INSTITUTIONS ATTENDED AND ADDRESSES ON ADDITIONAL SHEET, IF NECESSARY. INDICATE MAJOR CONCENTRATION AND ACTUARIAL EXAMS COMPLETED IF NOT A FELLOW.

5. Member of Professional Societies or Associations (List): _____

6. Present Chief Occupation: _____

Position or Title: _____ How Long? _____

Employer's Name: _____

Address: _____

How long with this employer? _____ Where? _____

7. Other jobs, positions, directorates, or officerships concurrently held at present:

8. Complete Employment Record for Past 20 Years:

DATES EMPLOYER AND ADDRESS TITLE

9. Indicate property and casualty loss reserve and loss expense reserve experience:

10. In order to qualify to sign statements of opinion relating to loss and loss adjustment expense reserves for a captive insurance company, an applicant must qualify in one or more of the following areas. Indicate by an which area(s) you qualify in:

A member of the Casualty Actuarial Society and three years of property and casualty loss and loss expense reserve evaluation experience.

A member in good standing of the American Academy of Actuaries and five years of property and casualty loss and loss expense reserve evaluation experience.

I hereby certify that my responses to the above are true and complete, and I have read and understand all of the requirements and provisions of the Captive Insurance Regulation Chapter C(6) and will fully comply therewith.

(NO FEE REQUIRED)

Signed _____

Dated _____

19 _____ SUBSCRIBED AND SWORN TO before me this _____ day of _____,

Signature of Notary Public _____

NOTARY SEAL

Notary Public authorized by law of the State of _____ to administer oaths. My commission expires on _____.