

CHAPTER 100
SHORT TITLE, DEFINITIONS AND MISCELLANEOUS

- § 100101. Short Title.
- § 100102. Automated Teller Machine (ATM), Bank, Territorial Bank, Commercial Bank, Savings Bank, State Bank, National Bank.
- § 100103. General Definitions.
- § 100104. Effect on Existing Banks.
- § 100105. Commencement of Terms of First Officials to be Appointed Hereunder.
- § 100106. Separability.
- § 100107. Effective Date.
- § 100108. Repealer.

§ 100101. Short Title.

This Title may be cited as the *Guam Banking Code*.

SOURCE: GC §30000.

§ 100102. Automated Teller Machine (ATM), Bank, Territorial Bank, Commercial Bank, Savings Bank, State Bank, National Bank.

As used in this Title:

'Automated teller machine' ('ATM') means a customer/bank communication terminal (*'CBCT'*) or other such device either manned or unmanned which may be activated through an accepted card or other means of access to an account at a financial institution, as such terms are defined in 15 U.S. Code § 1693a of the Electronic Funds Transfer Act; or any other electronic terminal or device either manned or unmanned which may be activated by the use of a credit card for the purpose of obtaining credit from the card issuer, as such terms are defined in 15 U.S. Code § 1602 of the Truth in Lending Act, other than a device provided and maintained by the card issuer or under its authority for the sole purpose of electronically authorizing sales transactions at a merchant's place of business. A device shall not be deemed maintained or provided under authority of the card issuer merely by reason of the fact that credit may be obtained electronically through the device.

11 GCA FINANCE & TAXATION
CH. 100 SHORT TITLE, DEFINITIONS AND MISCELLANEOUS

'Bank' or *'Commercial Bank,'* except as otherwise provided in this Title, means an officially chartered institution empowered to receive deposits, make loans, provide checking and savings account services, and/or conduct a general commercial banking activity, organized under strict requirements of either the Federal or a state or territorial government.

'Bank holding company' means a bank holding company as defined in Section 2(a)(1) of the Bank Holding Company Act of 1956, as amended.

'Control' shall be construed consistent with Section 2(a)(2) of the Bank Holding Company Act of 1956, as amended.

'Customer/bank communication terminal' (*'CBCT'*) has the meaning set forth in this Section for *'automated teller machine'* (*'ATM'*).

'National Bank' means any bank chartered under the national banking laws of the United States.

'Out-of-state bank' has the meaning set forth in §106351 of this Title.

'Savings Bank' means any bank whose charter limits its powers to accepting deposits to accounts that which may only be withdrawn after notice.

'State Bank' means any bank chartered under the banking laws of one of the states of the United States.

'Territorial Bank' means any bank chartered by Guam."

SOURCE: GC §30001. Definitions added by P.L. 24-35:2 (5/29/97). Re-pealed/reenacted by P.L. 27-88:3.

§ 100103. General Definitions.

In this Title, unless the context otherwise requires.

'Action' in the sense of a judicial proceeding includes recoupment, counter-claim, set-off, suit in equity and any other proceedings in which rights are determined.

'Board' when used with an initial capital letter means the Banking and Insurance Board of Guam.

11 GCA FINANCE & TAXATION
CH. 100 SHORT TITLE, DEFINITIONS AND MISCELLANEOUS

'Commissioner' means the Commissioner of Banking and Insurance.

'Community' means a city, town, municipality or incorporated village in Guam, or where not within any of the foregoing, a trade area in Guam.

'Court' means a court of competent jurisdiction.

'Department' means the Department of Revenue and Taxation.

'Division' means the Division of Insurance, Securities and Banking within the Department of Revenue and Taxation.

'Executive Officer' when referring to a bank, means any person designated as such in the by-laws and includes, whether or not so designated, the president, any vice-president, the treasurer, the cashier, the comptroller and the secretary, or any person who performs the duties appropriate to those offices.

'Fiduciary' means trustee, agent, executor, administrator, committee, guardian or conservator for a minor or other incompetent person, receiver, trustee in bankruptcy, assignee for creditors or any holder of a similar position of trust.

'Good faith' means honesty in fact in the transaction and some reasonable ground for belief that the transaction is rightful or authorized. *'Item'* means any instrument for the payment of money even though negotiable, but does not include money.

'Officer' when referring to a bank, means any person designated as such in the by-laws and includes, whether or not so designated, any executive officer, the chairman of the board of directors, the chairman of the executive committee, and any trust officer, assistant vice president, assistant treasurer, assistant cashier, assistant comptroller or any person who performs the duties appropriate to those offices.

'Person' means an individual, corporation, partnership, joint venture, trust estate or unincorporated association.

'Reason to know' means that upon the information available to a person of ordinary intelligence in the particular business, or of the superior intelligence or experience which the person in question may have, would infer that the fact in question exists or that there is

11 GCA FINANCE & TAXATION
CH. 100 SHORT TITLE, DEFINITIONS AND MISCELLANEOUS

such a substantial chance of its existence that, if exercising reasonable care with reference to the matter in question, conduct would be predicated upon the assumption of its possible existence.

SOURCE: GC §30002. Amended by P.L. 27-88:3.

§ 100104. Effect on Existing Banks.

(a) All territorial banks and, to the extent applicable, all banks, shall hereafter be operated in accordance with the provisions of this Title.

(b) All national banking associations authorized to transact business in this territory, to the extent that the provisions of this Act are not inconsistent with and do not infringe paramount Federal laws governing national banking associations, shall hereafter be operated in accordance with the provisions of this Act.

SOURCE: GC §30003.

§ 100105. Commencement of Terms of First Officials to be Appointed Hereunder.

The terms of office of the members of the first Board appointed under this Title shall commence upon their appointment by the Governor.

SOURCE: GC §30004.

§ 100106. Separability.

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

SOURCE: GC §30005.

§ 100107. Effective Date.

This Act shall become effective upon approval by the Governor.

SOURCE: GC §30006.

§ 100108. Repealer.

(a) All other Acts and parts of Acts inconsistent herewith are hereby repealed.

11 GCA FINANCE & TAXATION
CH. 100 SHORT TITLE, DEFINITIONS AND MISCELLANEOUS

(b) This Title being a general Act is intended as a unified coverage of its subject matter, no part of it shall be deemed to be impliedly repealed by subsequent legislation not specifically repealing it if such construction can be avoided.

SOURCE: GC §30007.
