

5 GCA GOVERNMENT OPERATIONS
CH. 20 DEPARTMENT OF ADMINISTRATION

DIVISION 2
LAWS APPLICABLE TO EXECUTIVE BRANCH

CHAPTER 20
DEPARTMENT OF ADMINISTRATION

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ARTICLE 1
ORGANIZATION

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§ 20101. Title.

This Chapter may be cited as the *Department of Administration Law*.

SOURCE: GC § 6000 repealed and reenacted by P.L. 11-219.

COMMENT: The word *act* in P.L. 11-219 changed by Compiler of Laws to conform the usages of the Guam Code Annotated.

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§ 20101.1. Director of Administration to Pay COLA Awards.

[Repealed.]

SOURCE: Added by P.L. 28-151:3 (Oct. 31, 2006). Repealed by P.L. 29-004:16 (Sept. 6, 2007).

NOTE: This section was added by P.L. 28-151 in relation to the authorization of the Governor to make COLA payments pursuant to *Rios v. Camacho*, Superior Court Case No. SP0206-93. Pursuant to P.L. 28-151, this section “shall be repealed and cease to be of any further force and effect upon the Superior Court’s determination in SP0206-93 that all COLA awards have been paid over.”

§ 20101.2. Duties of Director of Administration Regarding COLA Awards.

[Repealed.]

SOURCE: Added by P.L. 28-151:4 (Oct. 31, 2006). Repealed by P.L. 29-004:17 (Sept. 6, 2007).

NOTE: This section was added by P.L. 28-151 in relation to the authorization of the Governor to make COLA payments pursuant to *Rios v. Camacho*, Superior Court Case No. SP0206-93. Pursuant to P.L. 28-151, this section “shall be repealed and cease to be of any further force and effect upon the Superior Court’s determination in SP0206-93 that all COLA awards have been paid over.”

§ 20102. Definitions.

(a) *Director* means the Director of Administration.

(b) *Department* means the Department of Administration

SOURCE: GC § 6001 renumbered from § 54151 by P.L. 11-219.

§ 20103. Transfer of Duties.

Except as otherwise specifically provided, the Department does hereby assume all the powers, duties and responsibilities of the Department of Finance as set out in this Title and the Department of Labor and Personnel as set out in Title 4 Guam Code Annotated. The Department shall also be responsible for administering the Records Management Law [Art. 6 of this Chapter] and the Automatic Data Processing Program [Art. 2 of this Chapter].

SOURCE: GC § 6003 renumbered from § 54153 by P.L. 11-219.

§ 20104. References.

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All references in this Code to the Department of Finance shall mean and be read as Department of Administration and all references therein to the Director of Finance shall mean and be read as Director of Administration. All references in Title 4 of this Code to the Department of Labor and Personnel shall mean and be read as Department of Administration and all references therein to the Director of Labor and Personnel shall mean and be read as Director of Administration. All references in any contract, Executive Order, rule, regulation, or document to the Department of Labor and Personnel or Director of Labor and Personnel shall mean and be read as Department of Administration and Director of Administration, respectively. All references to the Department of Finance or Director of Finance in any contract, Executive Order, rule, regulation or document dealing with the functions herein transferred shall mean and be read as the Department of Administration and Director of Administration, respectively. Unless otherwise provided, every reference in law, order or regulation to the department or office of Records and Accounts shall be construed to mean the Department of Administration and every reference to the head of the department or office of Records and Accounts shall be construed to mean the Director of Administration.

SOURCE: GC § 6004 renumbered from § 54154 by P.L. 11-219.

COMMENT: All references have been changed as directed by this Section in the Guam Code Annotated.

§ 20105. Organization & Personnel.

(a) The Director may establish such divisions or other organizational units as he may determine to be necessary for the efficient and effective administration and operation of the Department. Each such division or organizational unit shall be subject to the supervision and direction of the Director and shall have jurisdiction of such matters, exercise such powers, and perform such duties as may be assigned to it by the Director or otherwise by applicable law.

(b) The Director may appoint and remove officers and other employees within the Department in accordance with the provisions of the Personnel and Compensation Laws (Title 4 of this Code).

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(c) The Director may delegate authority for the performance of any of his powers or duties to any officer or employee under his direction and supervision.

SOURCE: GC § 6005 renumbered from § 54155 by P.L. 11-219.

§ 20106. General Powers & Duties of Director.

As head of the Department, the Director

(a) shall administer the Department;

(b) shall exercise and discharge the powers and duties of the Department through such divisions or other organizational units as he may establish pursuant to this Division or as otherwise provided by law;

(c) shall enforce the provisions of this Division and of any other laws imposing any power, duty or other function upon the Department; and

(d) may formulate and adopt rules necessary or proper for the internal administration of the Department.

(e) The Director of Administration shall establish and maintain a list of all government employees who are sex offenders, as that term is defined in § 4203.3 of Article 2, Chapter 4 of Title 4 Guam Code Annotated, and identify those employees who are assigned to positions which require public contact. The Director shall determine the positions in the classified service not requiring public contact for which those employees are qualified and eligible. The Director shall notify each employee determined to be eligible for a position or of positions of his or her eligibility and allow the employee to voluntarily transfer to a position not requiring public contact.

SOURCE: GC § 60006 renumbered from § 54156 and amended by P.L. 11-219. Subsection (e) added by P.L. 28-98:3 (Feb. 7, 2006).

§ 20107. Transfer of Records & Equipment.

Upon the transfer of functions as provided in this Law, all contracts, books, records, papers, maps, plans, documents, property and pending business heretofore made, used and acquired or conducted by the Departments of Labor & Personnel

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and Finance in the exercise of the functions transferred shall be transferred to the Department of Administration.

SOURCE: GC § 6007 renumbered from § 54157 by P.L. 11-219.

§ 20108. Transfer of Officers & Employees.

[Repealed.]

SOURCE: GC § 6008 renumbered from § 54158 by P.L. 11-219. Repealed by P.L. 28-068:IV:43 (Sept. 30, 2005), effective January 1, 2006.

§ 20109. Effective Date.

This Chapter shall take effect upon its passage and approval, but in order that there be no interruption of the administrative business of the government, the Governor may, for a period of not to exceed six months, postpone the actual transfer of all or a portion of the functions here involved until such time as the organization herein provided for can be put into full force and effect. Except as otherwise provided, all officers, their subordinates and employees whose functions are preserved by this Chapter, shall continue to perform the same from the time this Chapter takes effect in like manner as though they had been appointed or employed after the passage of this Chapter until successors to said functions and duties are appointed and qualified.

SOURCE: GC § 6009 renumbered from § 54159 by P.L. 11-219. Original Dept. of Administration Act was enacted by P.L. 9-239.

§ 20110. Schedule of Fees of Copies.

The Director of Administration, notwithstanding any other provision of law, is authorized and directed to collect the following fees for the furnishing of certified, authenticated, or photocopied copies of records, documents, receipts, or other papers:

Copy of filed income tax return, without attachments	\$ 5.00
Copy of attachments to filed income tax returns	\$ 1.00
Copy of W-2 withholding tax statement	\$ 1.00

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Copy of pay-in voucher or treasurer's receipt	\$ 1.00
Copy of business or professional license	\$ 1.00
Copy of fishweir license	\$ 1.00
Copy of certificate of registration of articles of incorporation, domestic or foreign corporation	\$ 1.00
Copy of articles of incorporation	\$10.00
Copy of any other record, document, receipt, or other paper, per page	\$ 1.00
Certification or authentication of any record, document, receipt, or other paper, in addition to copy charge	\$ 0.50

All laws inconsistent with the provisions of this section are hereby repealed to the extent of such inconsistency.

SOURCE: GC § 6114 added by P.L. 3-20. Repealed by P.L. 18-047:2 (Jan. 2, 1987); however, P.L. 19-005:139 (Aug. 21, 1987) repealed P.L. 18-047.

COMMENT: Notwithstanding the express repeal of this section by P.L. 18-047:2, the previous Compiler found that this section was revived upon the enactment of P.L. 19-005 (Aug. 21, 1987). The common law rules of statutory construction apply in Guam pursuant to 1 GCA § 700. "Under the common law rules of interpretation, the repeal of a repealing statute revives the original enactment where such repeal is accomplished by express provision." Sutherland Statutory Construction, 7th ed., § 23:32 (2009).

P.L. 19-005:139 expressly repealed P.L. 18-047, but did not include a provision addressing the schedule of fees for copies; therefore, the original enactment (codified as 5 GCA § 20110) was revived.

CROSS REFERENCE: 5 GCA § 10203 (Charges for Copying Government Documents).

§ 20111. Payroll Deductions and Marketing within Government.

(a) Payroll Deduction. The government of Guam may provide payroll deduction services to employees of the government as requested by an employee; however, if payroll

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deduction services are provided for payment to one of a class of businesses, it must be provided for payment to all members of the class. Notwithstanding any other provision to the contrary, upon request by an employee of an agency or instrumentality of the government of Guam, the relevant personnel office for the agency or instrumentality *shall* provide a payroll deduction service for such employee to contribute to a 501(c)(3) non-profit registered with the Department of Revenue and Taxation. Such deductions *shall* be reported on a cumulative basis on the pay stub of the employee, and *shall* be reported as a cumulative total on the employee's W-2. Government of Guam employers *shall* make available a list of qualified 501(c)(3) registered non-profits as a physical copy or electronic format to government employees upon request. The list provided for in this Subsection *shall* be compiled from the current list of 501(c)(3) non-profit organizations registered with the Department of Revenue and Taxation *not later than* ninety (90) days from the enactment of this Act. Thereafter, the list of non-profits *shall* be updated annually by January 1st.

(b) **Exclusivity of Marketing.** The government of Guam may provide the opportunity for employees to have access to the marketing of certain products during working hours at government facilities; however, if this access is provided for one of a class of products, it must be provided for all members of the class. All 501(c)(3) organizations registered with the Department of Revenue and Taxation may be provided access to market their programs during working hours and on government facilities. All such marketing programs *shall not* interrupt the provision of government services.

SOURCE: Added by P.L. 21-003:III:69(d) (Apr. 17, 1991). Amended by P.L. 32-118:3 (Feb. 10, 2014).

2014 NOTE: Pursuant to P.L. 32-118:1, this Act shall be cited as the "Non-Profit Payroll Deduction Act."

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**ARTICLE 2
OFFICE OF TECHNOLOGY**

SOURCE: Added by P.L. 13-096:2 (Nov. 15, 1975) as Chapter XI of Title VII of the Government Code, entitled “Automatic Data Processing. Codified by the Compiler as Article 2, Chapter 20 of Title 5 GCA. Repealed and added by P.L. 32-010:1 (Apr. 11, 2013), entitled “Office of Technology.” Repealed by P.L. 34-076:1 (Feb. 9, 2018). “Office of Technology” was added as 5 GCA Chapter 1, Article 11 by P.L. 34-076:2 (Feb. 9, 2018), renumbered to 5 GCA Chapter 1, Article 12.1 by the Compiler pursuant to the authority of 1 GCA § 1606.

**ARTICLE 3
EDUCATIONAL PERSONNEL DEVELOPMENT
AND TRAINING ACT**

- § 20301. Title: Purpose.
- § 20302. Director.
- § 20303. Duties of the Director.
- § 20304. Continuing Education for Accountants.
- § 20305. Rules and Regulations.
- § 20306. Participation by Department of Education, Guam Community College, and University of Guam.

§ 20301. Title: Purpose.

This Article shall be cited as the Educational Personnel Development and Training Act. Its purpose is to improve the ability of officers and employees of Department of Education, Guam Community College, and University of Guam to perform the duties to which they have been assigned and to increase the capacity of educational employees and officers to assume broader responsibilities through training and development opportunities.

SOURCE: Repealed and reenacted by P.L. 23-122:3.

2009 NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the Department of Education to the Guam Public School System. The passage of P.L. 30-050:2 (July 14, 2009) reverted the name to the Department of Education.

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§ 20302. Director of Administration.

The Director of Administration, hereinafter referred to as the “Director” shall establish and administer effective training and development programs for the employees of departments and agencies of the government of Guam except for those departments and agencies who are exempted from the provisions of this Act as set forth in § 20305 of this Article.

SOURCE: Repealed and reenacted by P.L. 23-122:3.

§ 20303. Duties of the Director.

The Director shall, with due regard to the functions and mandates of the agencies concerned, provide training for skills enhancement and job advancement of employees in certain departments and agencies; provide training facilities and logistical support for government-wide employee training as needed; establish and administer supervisory and management development programs; apply for and administer federal grants which provide for personnel training and development; establish committees as are necessary for the proper administration of all training programs; analyze in-house training programs as to their usefulness and develop training procedures to meet the emerging demands or needs of government employees; insure maximum utilization of training facilities; and to annually prepare a government-wide personnel training and development study that assesses the training needs of the employees of the government of Guam by department and agency and to utilize such data in the formulation of suitable training programs.

SOURCE: Repealed and reenacted by P.L. 23-122:3.

§ 20304. Continuing Education for Accountants.

Directors of the various government of Guam departments and line agencies and boards of directors of autonomous instrumentalities and public corporations shall budget for and finance the annual cost of continuing education for accounting personnel employed by such departments, and instrumentalities, including accountants, auditors, comptrollers, accounting teachers and accounting personnel of the Department of Revenue and Taxation. If such an accountant is certified, then the continuing education requirements of the certifying organization

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will determine such accountant's continuing education program. First priority for training shall be given to such personnel. If the accountant is not certified, then the continuing education requirements for Federal accounting and auditor employees will be used to set the continuing education requirement for such an accountant.

SOURCE: Repealed and reenacted by P.L. 23-122:3.

§ 20305. Rules and Regulations.

The Director shall make such rules and regulations as are necessary or proper to effectuate the purpose and intent of this Article.

SOURCE: Repealed and reenacted by P.L. 23-122:3.

§ 20306. Participation of the Department of Education, Guam Community College and the University of Guam.

The heads of the Department of Education, Guam Community College, and University of Guam are hereby granted the opportunity and option to coordinate, fund, and administer any specialized or professional training needs of the employees in their respective departments and such departments shall notify the Director of the Department of Administration in the event that such specialized or professional training programs are to be offered. The Director of Administration shall notify all government entities of the availability of such programs and may coordinate government-wide participation with the approval of the sponsoring department.

SOURCE: Repealed and reenacted by P.L. 23-122:3.

2009 NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the Department of Education to the Guam Public School System. The passage of P.L. 30-050:2 (July 14, 2009) reverted the name to the Department of Education.

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ARTICLE 4
PATENTS, TRADEMARKS & COPYRIGHTS

- § 20401. Definitions.
- § 20402. United States Patents and Copyrights: Registration.
- § 20403. Renewed United States Patents, Copyrights or Trademarks.
- § 20404. Application to Register United States Patents, Copyrights or Trademarks.
- § 20405. Guam Certificate of Registration.
- § 20406. Duration of Protection.
- § 20407. Record: Issuance and Effect of Guam Certificate.
- § 20408. Penalty for False Applications.
- § 20409. Certain Prints, Labels Trademarks, Service Mark and Tradenames not to be Adopted or Used.
- § 20410. Penalty - Injunctions; Unlawful Use.
- § 20411. Revocation of Guam Certificate; Nonuse.
- § 20412. Application of Law; Reissue on Nonuser.
- § 20413. Revocation of Guam Certificate: Ownership.
- § 20414. Appeal.

§ 20401. Definitions.

As used in this Chapter, unless the context otherwise requires:

(a) Director means the Director of the Department of Commerce of the government of Guam.

(b) Person means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, unincorporated association, two or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity.

(c) Trade name means a word or name used by a person to identify the person's business, vocation or occupation and distinguish it from the business, vocation or occupation of others.

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(d) Trademark means any word name, symbol or device or any combination thereof adopted and used by a person to identify goods and distinguish them from the goods of others.

(e) Print means any original artwork, design, poster, lithograph or literary work.

SOURCE: GC § 6400 added by P.L. 2-93. Amended by P.L. 20-103:3. Public Law 22-112 split the former Customs & Quarantine Division of the Department of Commerce from that Department, making it a separate Department within the government. This section amended by P.L. 20-103 was repealed/reenacted by P.L. 23-62 (Dec. 1995).

NOTE: P.L. 23-63:1 contains the following Legislative Intent:

Legislative Findings: The Legislature finds that an increasing number of the residents of Guam are more than ever before expressing their thoughts and opinions by becoming creative resulting in the creation of original designs. In order to ensure that individual artworks are protected, the Legislature finds that it is necessary to implement a law which provides such protection. Under current law, local artists have to apply for protection through the United States Patent Office and present a copy of the certificate granted by that office of the Department of Administration in order to be assured protection locally.

The Legislature further finds that this is a cumbersome and expensive process for most local businesses and manufacturers. As opposed to overall protection throughout the United States, local businesses and manufacturers need the protection right within the Territory of Guam.

2013 NOTE: Subsection designations were added to adhere to the Compiler's alpha-numeric scheme in accordance to 1 GCA § 1606.

§ 20402. United States Patents and Copyrights: Registration.

The owner of a patent, copyright, or trademark registered with the United States Patent and Trademark Office, who desires to register it in the Territory of Guam, may do so by complying with the following provisions:

(a) By supplying a certified copy of the United States Registration of such patent, copyright or trademark, to the Director.

(b) By paying to the Director the sum of Fifty Dollars (\$50) for the requisite filing with the Department of Revenue

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and Taxation which shall be deposited in the General Fund of the Territory of Guam.

SOURCE: GC § 6401 amended by P.L. 3-14. R/R by P.L. 23-63:2.

§ 20403. Renewed United States Patents, Copyrights or Trademarks.

Patents, copyrights or trademarks renewed in the United States Patent and Trademark Office must likewise be renewed with the government of Guam, and the procedure as set forth in § 20402 of this Chapter is required for such renewal, with the addition that a certified copy of the renewal granted by the United States Patent and Trademark Office must be furnished; provided, that if a certified copy of the original registration has been filed in Guam, then in another copy need not be furnished with the notice of renewal.

§ 20404. Application to Register United States Patent, Copyright or Trademark.

When other than the owner of a patent, copyright or trademark applies for registration or renewal of the same, documentary evidence satisfactory to the Director setting forth the right of the applicant to such registration or renewal must be furnished prior to the granting of the registration or renewal requested, unless such documentary evidence has been previously supplied to the Director.

SOURCE: Added by P.L. 20-103:1. R/R by P.L. 23-62:2.

§ 20405. Guam Certificate of Registration.

(a) Any person desiring to register any print, label or trademark intended to be attached or applied to goods or manufactured articles or to bottles, boxes or package containing the goods or manufactured articles to indicate the name of the manufacturer and any person desiring to register a service mark or a trade name in the manner hereinafter provided.

(b) Before any person may receive a Guam certificate or registration of a print, label or trademark, the person shall file in the office of the Director, an application for the registration of such print, label or trademark with a declaration, certified by the applicant, stating that the applicant is the sole and original proprietor or authorized user of this print, label or trademark and

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describing the goods or manufactured articles for which the print, label or trademark is used, and stating the manner in which the print, label or trademark is used. Before any person may receive a Guam certificate of registration of a service mark or trade name, the person shall file in the office of the Director an application for the registration thereof, with a declaration, certified as aforesaid, stating that the person is the sole and original proprietor of the service mark or tradename, or the assign of the proprietor or authorized user and setting the nature of the business in which the service mark or tradename is used. Upon filing the application, the applicant shall pay to the Director a fee of One Hundred Dollars (\$100), which shall be deposited in the General Fund of the Territory of Guam. When other than the sole and original proprietor of a print, label, trademark, service mark or tradename applies for the registration of the same, documentary evidence, satisfactory to the Director explicitly setting forth the right of the applicant to use such print, label, trademark, service mark or tradename must be furnished to the Director prior to the granting of the registration or renewal requested.

SOURCE: Added by P.L. 23-62:3.

§ 20406. Duration of Protection.

Unless otherwise provided in this Act, the filing of an application as provided in § 20405 shall remain in full force and effect for a period of five (5) years.

SOURCE: Added by P.L. 23-62:3.

§ 20407. Record: Issuance and Effect of Guam Certificate.

Upon receiving the application accompanied by the fee, the Director shall cause the print, label, trademark, service mark or tradename to be filed with the Department of Commerce and shall issue to the regulations as may be necessary to carry out the purposes of this section in accordance with the Territory of Guam's Administrative Adjudication Law.

SOURCE: Added by P.L. 23-62:3.

§ 20408. Penalty for False Applications.

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(a) Any person who signs and certifies as correct any application filed pursuant to this Chapter, knowing the same to be false in any material particular, shall be fined not more than Thirty Thousand Dollars (\$30,000).

(b) Any person who negligently, but without intent to defraud, signs and certifies as correct any application filed pursuant to this Chapter, which application is false in any material particular, shall be fined not more than Three Thousand Dollars (\$3,000).

SOURCE: Added by P.L. 23-63:3.

§ 20409. Certain Prints, Labels, Trademarks, Service Mark and Tradenames Not to be Adopted or Used.

It shall be unlawful for any person to adopt or use a print, label, trademarks, service mark or tradename which is identical to or confusingly similar with any registered print, label, trademark, service mark or tradename or the name of any person.

SOURCE: Added by P.L. 23-62:3.

§ 20410. Penalty – Injunctions; Unlawful Use.

(a) Any person using such identical or similar print, label, trademark, service mark, or tradename as set forth in Section [20409], shall be fined not less than Ten Thousand Dollars (\$10,000).

(b) The Superior Court of Guam shall have the power to grant injunctions, according to principals of equity and upon such terms as the court may deem reasonable, to prevent the violation of any right of a registered owner of a print, label trademark, service mark, or tradename registered with the Department of Commerce.

SOURCE: Added by P.L. 23-62:3.

2010 NOTE: Reference herein to “Section 20408” appears to be a manifest error by P.L. 23-62:3. Section 20409 of this article appropriately describes subject matter. Correction made by Compiler.

§ 20411. Revocation of Guam Certificate; Nonuse.

If any print, label, trademark, service mark, or tradename is not used by the registrant in accordance with the declaration

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either in the Territory of Guam or elsewhere in the United States for a period exceeding three hundred and sixty-five (365) consecutive days, and the print, label, service mark, trademark, or tradename has not been registered in the name of the registrant in the Patent and Trademark Office of the United States, the Guam certificate of registration may be immediately revoked by the Director. Any person desiring such revocation shall file a verified petition in the office of the Director. Any person desiring such revocation shall file a verified petition in the office of the Director in such form as the Director may provide, setting forth facts indicating such nonuse for a period exceeding three hundred and sixty-five (365) consecutive days immediately preceding the date of the filing of the petition, and alleging the nonregistration in the Patent and Trademark Office of the United States. The petitioner shall at the petitioner's expense notify the registrant of the hearing in the manner prescribed by the Director, and the registrant shall be given the opportunity of a full hearing.

After granting an opportunity for hearing to the petitioner and the registrant, the Director shall grant or deny the petition for revocation, as the fact shall warrant.

SOURCE: Added by P.L. 23-62:3.

§ 20412. Application of Law; Reissue on Nonuser.

This Chapter is applicable to all registrations filed with the Office of the Director of the Department of Commerce; the intent hereof being that all prints, labels, trademarks, service marks, or tradenames not used by the applicant in the Territory of Guam or elsewhere in the United States and not registered in the name of the applicant in the Patent and Trademark Office of the United States may be reissued to such applicant who is actually using the same.

The fact that a print, label, trademark, service mark, or tradename has not been used in the Territory of Guam for a period exceeding three hundred sixty-five (365) consecutive days shall be prima facie proof of the fact that the same has not been used elsewhere for such period.

SOURCE: Added by P.L. 23-62:3.

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§ 20413. Revocation of Guam Certificate: Ownership.

Any person claiming to be the owner of a print, label, service mark, trademark, or tradename for which a Guam certificate of registration pursuant to this Chapter has been issued to any other person shall file a verified petition in the Office of the Director of the Department of Commerce in such form as the Director may provide forth revocation of the registration of such print, label, service mark, trademark, or tradename and in support of the claim of the petitioner that the Guam certificate of registration should be revoked.

After granting an opportunity for hearing to the petitioner and the registrant, the Director shall grant or deny the petition for revocation, as the facts warrant.

SOURCE: Added by P.L. 23-62:3.

§ 20414. Appeal. Any person aggrieved by any action of the Director under this Chapter in issuing a Guam certificate of registration of a print, label, trademark, service mark, or tradename or in revoking any such certificate of registration or in denying an application may, within thirty (30) days after action by the Director, or in the event no order has been entered either granting or denying the application within thirty (30) days after the filing of the application, commence proceedings to obtain judicial review thereof by the Superior Court of Guam by filing in the court a notice of appeal.

SOURCE: Added by P.L. 23-62:3.

ARTICLE 5
SURPLUS PROPERTY (FEDERAL)

- § 20501. Surplus Property Agency Designation.
- § 20502. Functions.
- § 20503. Rules and Regulations.
- § 20504. Certifications, Actions and Reports.
- § 20505. Contract and Cooperative Agreements.
- § 20506. Authority to Acquire, Hold and Improve Property.
- § 20507. Personnel.

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- § 20508. Clearinghouse.
- § 20509. Cooperation with Federal Government.
- § 20510. Power to Delegate Authority.
- § 20511. Transfer Charges.
- § 20512. Special Surplus Property Fund.
- § 20513. Authorization for Appropriation.

§ 20501. Surplus Property Agency Designation.

The Department of Administration is hereby designated as the State Agency for the purpose of § 203(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(j)) (hereinafter referred to as the Federal Act.)

SOURCE: GC § 6200; added by P.L. 11-219.

§ 20502. Functions.

The Director is authorized and empowered to

- (a) acquire from the United States of America such property as is allocated to the Department pursuant to the Federal Act,
- (b) to warehouse such property, and
- (c) to distribute such property to those entities and institutions which meet the qualifications for eligibility for such property under the Federal Act, or who may hereafter meet such qualifications.

SOURCE: GC § 6201 added by P.L. 11-219.

§ 20503. Rules and Regulations.

Subject to the provisions of the Administrative Adjudication Law, the Director may prescribe such rules and regulations as may be necessary for the efficient administration of this Article or as may be required by Federal laws and regulations.

SOURCE: GC § 6203 added by P.L. 11-219.

§ 20504. Certifications, Actions and Reports.

The Director may make the necessary certifications, undertake such action, and make such reports as may be required by Federal law or regulations or which may otherwise be

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necessary to provide for the efficient administration of this Article.

SOURCE: GC § 6204 added by P.L. 11-219.

§ 20505. Contract and Cooperative Agreements.

The Director may enter into contracts and other agreements for and on behalf of Guam, including the cooperative agreements within the purview of § 203(n) of the Federal Act (40 U.S.C. 484(n)) with Federal agencies, as well as agreements with other SASP or groups and associations thereof which will promote the administration of this Article.

SOURCE: GC § 6205 added by P.L. 11-219.

§ 20506. Authority to Acquire, Hold and Improve Property.

The Director may, subject to the availability of funds in the Special Surplus Property Fund provided for by § 20511 of this Article, acquire and hold title to real property, make capital improvements thereto, and make advance payments of rent for distribution centers, office space, or other facilities required to carry out the functions of the Department as herein provided.

SOURCE: GC § 6206 added by P.L. 11-219.

§ 20507. Personnel.

The Director is authorized and empowered to appoint advisory board or committees, and to appoint, under the government of Guam Personnel Law and Compensation Law (Title 4 of this Code), subject to such additional standards as may be required by the United States Department of Health & Human Services, such other personnel as deemed necessary and suitable for the administration of this article.

SOURCE: GC § 6207 added by P.L. 11-219. Federal Dept. of Health, Education and Welfare changed to new name.

§ 20508. Clearinghouse.

The Director is authorized and empowered to act as a clearinghouse for information for the entities and institutions which may be eligible to acquire Federal surplus property, and to assist, as necessary, such entities and institutions in obtaining such property.

SOURCE: GC § 6208 added by P.L. 11-219.

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§ 20509. Cooperation with Federal Government.

The Director shall, consistent with the provisions of this Article, cooperate to the fullest extent with the departments or agencies of the United States of America, file a territorial plan of operation approved by the Governor, operate in accordance therewith, and take such action as may be necessary to meet the standards prescribed by the Federal Act.

SOURCE: GC § 6209 added by P.L. 219.

§ 20510. Power to Delegate Authority.

The Director may delegate to any employees of the Department such power and authority as he deems reasonable and proper for the effective administration of this Article.

SOURCE: GC § 6210 added by P.L. 11-219.

§ 20511. Transfer Charges.

The Director may assess a service and handling charge or fee for the acquisition, warehousing, distribution, or transfer of any Federal surplus property, within limits established by Federal law, which charge or fee shall be limited to that reasonably related to the costs of care and handling in respect to its acquisition, receipt, warehousing, distribution or transfer by the Department and, in the case of real property, such charges and fees shall be limited to the reasonable administrative costs of the Department incurred in effecting transfer.

SOURCE: GC § 6211 added by P.L. 11-219.

§ 20512. Special Surplus Property Fund.

(a) There is hereby established a fund to be known as the Special Surplus Property Fund, which shall be maintained separate and apart from any other funds from the government of Guam, and independent records and accounts thereof shall be established in connection therewith. The Chief Procurement Officer shall be the Certifying Officer of this Fund.

(b) All appropriations made for the purpose of implementing this Article shall be deposited with the Special Fund. All receipts from charges or fees assessed pursuant to § 20511 of this Article shall additionally be placed in the Special Fund. All proceeds from the sale or disposition of surplus

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supplies shall also be placed in the Special Fund. All debts, liabilities, obligations and operating expenses to manage this Fund, incurred pursuant to this Article shall be paid by the Chief Procurement Officer from said Fund. The Chief Procurement Officer is authorized to expend said funds for the training and development of GSA personnel and to support the operations of the Guam Procurement Advisory Council.

(c) The Chief Procurement Officer shall render quarterly to *I Maga'lahi* (the Governor) and to *I Liheslatura* (the Legislature) a statement reflecting the financial condition of the Special Fund and a financial statement of operations of the said Special Fund for the period covered.

SOURCE: GC § 6212 added by P.L. 11-219. Amended by P.L. 31-093:2 (Sept. 30, 2011).

§ 20513. Authorization for Appropriation.

There is hereby authorized to be appropriated to the Special Fund such sums as may be necessary to carry out the provisions of this article.

SOURCE: GC § 6213 added by P.L. 11-219.

**ARTICLE 6
RECORDS MANAGEMENT ACT**

- § 20601. Title.
- § 20602. Definitions.
- § 20603. Director.
- § 20604. Duties of Director.
- § 20605. Duties of Agency Heads.
- § 20606. Legislative and Judicial Branches.
- § 20607. Records not to be Damaged or Destroyed.
- § 20608. Disposal of Records.
- § 20609. Reproduction of Records on Films; Disposition of Original.
- § 20610. Destruction of Non-record Materials.
- § 20611. Rules and Regulations.

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§ 20601. Title.

This Article shall be known as the Records Management Act.

SOURCE: GC § 6700.

§ 20602. Definitions.

Unless the context otherwise requires, the definitions set forth in this Section govern the construction of this Article.

(a) Records means document, book, paper, photograph, sound recording, or other material, regardless of physical form or characteristic, made or received pursuant to law or in connection with the transaction of official business. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience or reference, forms and stocks of publications are not included within the definition of records and are referred to herein as non-record materials.

(b) Agency means:

(1) any department, office, commission, board or other [unit] of the government of Guam.

(2) the office of the Recording Secretary of the Guam Legislature.

SOURCE: GC § 6701. Subsection (b) repealed/reenacted by P.L. 22-93:1 (03/07/94).

2013 NOTE: Numbers and/or letters were altered to adhere to the Compiler's alpha-numeric scheme in accordance to 1 GCA § 1606.

COMMENT: The purpose of this repeal/reenactment was to include the Recording Secretary within the purview of the Records Management law. The former subsection (b) included the word *unit* in describing the Executive Branch of the government. The amendment omitted any such reference, making it unclear just what other was intended.

§ 20603. Director.

The Director of Administration, hereinafter referred to as the Director, shall established and administer in the Executive Branch a record management program, which will apply

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efficient and economical management methods to the creation, utilization, maintenance, retention, preservation and disposal of records.

SOURCE: GC § 6702, amended by P.L. 8-179, P.L. 9-239.

§ 20604. Duties of Director.

The Director shall, with due regard for the functions of the agencies concerned:

(a) Establish standards, procedures, and techniques for effective management of records;

(b) Make continuing surveys of paper work operations and recommend improvement in current records management practices including the use of space, equipment and supplies employed in crating, maintaining, sorting and servicing records;

(c) Establish standards for the preparation of schedules for the retention of government records of continuing value and for the prompt and orderly disposal of government records no longer possessing sufficient administrative, legal, or fiscal value to warrant their further keeping;

(d) Establish standards for the reproduction of records by photography or microphotographic processes with a view to the disposal of the original records; [and]

(e) Obtain reports from agencies as are required for the administration of the program.

SOURCE: GC § 6703.

§ 20605. Duties of Agency Heads.

The head of each agency shall:

(a) Establish and maintain an active, continuing program for the economical and efficient management of the records of the agency;

(b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the

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legal and financial rights of the government and of persons affected by the agency's activities;

(c) Submit to the Director, in accordance with the standards established by him, schedules proposing the length of time each government record warrants retention for administrative, legal or fiscal purposes after it has been received by the agency. The head of each agency also shall submit lists of government records in his custody that are not needed in the transaction of current business and that do not have sufficient administrative, legal or fiscal value to warrant their further keeping for disposal in conformity with the requirements of § 20608 of this article.

(d) Cooperate with the Director in the conduct of surveys made by him pursuant to the provision of this article.

SOURCE: GC § 6704.

§ 20606. Legislative and Judicial Branches.

Upon request, the Director shall advise in the establishment of records management programs in the Legislative and Judicial Branches of government.

SOURCE: GC § 6705.

§ 20607. Records not to be Damaged or Destroyed.

All records made or received by or under the authority of or coming into the custody, control, or possession of public officials of this government in the course of their public duties are property of the government and shall not be destroyed, transferred, removed, or otherwise damaged or disposed of, in whole or in part, except as provided by law.

SOURCE: GC § 6706.

§ 20608. Disposal of Records.

Records may be destroyed or disposed of in accordance with the provisions of this Article if it is determined by the Director, the Attorney General and the agency head concerned that such records have no further legal, administrative, fiscal, research, or historical value.

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SOURCE: GC § 6707.

§ 20609. Reproduction of Records on Films; Disposition of Original.

(a) The head of any agency having the care and custody of any record may cause the same to be photographed, microphotographed, or otherwise reproduced on film or in computerized form. When such head so establishes computerized storage of records and papers not originally kept in computerized form, he shall keep a parallel microfilm or photographic storage of the same records until such time as established national standards, property followed, will give the same degree of permanency to the electronic storage as is required for the microfilmed records of a similar category. The documents retrieved from electronic storage of non-electronic originals shall be deemed to be as admissible as records reproduced from any other means of storage provided for in this section. The Governor of Guam, with respect to the Executive Branch, and the Committee on Rules, with respect to the Legislative Branch, are charged to make certain that such records shall be readily accessible to the public for examination and copying at reasonable rates.

(b) When such records are photographed, microphotographed, or otherwise reproduced on film, if it is determined by the Director, the Attorney General and the agency head concerned that the original record has no further legal, administrative, fiscal, research, or historical value the same may be destroyed or disposed of in accordance with the provision of this Article and thereafter the photograph, microphotograph, or reproduction on film shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies. A transcript, exemplification, facsimile, or certified copy thereof shall, for all purposes recited herein, be deemed to be a transcript, exemplification, facsimile, or certified copy of the original record.

(c) Where certain records are required to be kept a specific length of time or permanently, or to be destroyed by specific methods or under specific supervision, and where such records are photographed, microphotographed, or reproduced no film

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said film may be submitted for the original records and the original records may be destroyed in the manner and under the conditions prescribed in subsection (b), above.

SOURCE: GC § 6708. Subsection (a) repealed/reenacted by P.L. 22-128:4 (05/24/94) relative to electronic archival storage.

§ 20610. Destruction of Non-record Materials.

Non-record materials, if not otherwise prohibited by law, may be destroyed at any time by the agency in possession of such materials without the prior approval of the Director. The Director may formulate procedures and interpretations to guide in the disposition of such materials.

SOURCE: GC § 6709.

§ 20611. Rules and Regulations.

The Director shall, subject to the approval of the Governor and promulgation by Executive Order, make such rules and regulations as are necessary or proper to effectuate the purposes of this Article.

SOURCE: GC § 6710.
