

7 GCA CIVIL PROCEDURE
CH. 35 ESCHEATED ESTATES

CHAPTER 35
ESCHEATED ESTATES

NOTE: For additional substantive and procedural law on escheated estates of known deceased persons, See 15 GCA, Estates & Probate, Chapter 12.

- § 35101. Action on Behalf of Government of Guam.
- § 35102. Action to Determine Government's Right to Property.
- § 35103. Receiver of Income.
- § 35104. Appearance: Trial: Sale.
- § 35105. Claim to Escheated Property.
- § 35106. Unclaimed Bank Deposits Escheat to Government of Guam.
- § 35107. Deposit of Unclaimed Property: Escheat to the Government.
- § 35108. Unclaimed Moneys of Missing Persons.

§ 35101. Action on Behalf of Government of Guam.

At any time after two years after the death of any decedent, leaving property to which the Government of Guam is entitled by reason of its having escheated to the Government of Guam, the Attorney General shall commence a proceeding on behalf of the Government of Guam in the court having jurisdiction to have it adjudged that the Government of Guam is so entitled. Such action shall be commenced by filing a petition, which shall be treated as the information elsewhere referred to in this Chapter. There shall be set forth in such petition a description of the property, the name of the person last possessed thereof, the name of the person, if any, claiming such property, or any portion thereof, and the facts and circumstances by virtue of which it is claimed the property has escheated.

Upon the filing of such petition, the court must make an order requiring all persons interested in the estate to appear and show cause, if any they have, within sixty (60) days from the date of the order, why such estate should not vest in the Government of Guam. Such order must be posted for four successive weeks on the public bulletin boards in Agana and, in case of real estate, a copy thereof on the property. Upon the completion of the publication of such order the court shall have full and complete jurisdiction over the estate, the property, and the person *of* everyone having or claiming any interest in the said property and shall have full and complete jurisdiction to hear and determine the issues therein, and render the appropriate judgment thereon.

If proceedings for the administration of such estate have been instituted, a copy of such order must be filed with the papers in such estate.

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if proceedings for the administration of any estate of any such decedent have been instituted and none of the persons entitled to succeed thereto has appeared and made claim to such property, or any portion thereof, before the decree of final distribution thereon is made, or before the commencement of such proceeding by the Attorney General, or if the court shall find that such persons as have appeared are not entitled to the property of such estate, or of any portion thereof, the court shall, upon final settlement of the proceedings for the administration of such estate, after the payments of all debts and expenses of administration, distribute all moneys and other property remaining to the Government of Guam. The property so distributed shall be held by the Treasurer of Guam for a period of five years from the date of the decree making such distribution within which time the same may be claimed in the manner in this Chapter hereafter provided. Any person who does not appear and claim as herein required shall be forever barred, and such property or so much thereof as is not so claimed shall vest absolutely in the Government of Guam.

In any proceedings brought by the Attorney General under this Chapter, any two or more parties and any two or more causes of action may be joined in the same proceeding and in the same petition without being separately stated, and it shall be sufficient to allege in the petition that the decedent left no heirs to take the estate, and the failure of heirs to appear and set up their claims in any such proceeding, or in any proceedings for the administration of such estate, shall be sufficient proof upon which to have the judgment in any such proceeding or such decree of distribution.

SOURCE: CCP § 1269.

NOTE: *Island Attorney* and *Island Court* have been changed to *Attorney General* and *Superior Court*, respectively, by authority of P.L. 10-1 (amending 5 GCA § 30196) and P.L. 12-85, respectively.

§ 35102. Action to Determine Government's Right to Property.

Whenever the Attorney General is informed that any estate has escheated or is about to escheat to the Government of Guam or that the property involved in any action or special proceeding has escheated or is about to escheat to the Government of Guam, he may commence an action on behalf of the Government of Guam to determine its rights to said property or may intervene on its behalf in any action or special proceeding affecting any such estate and contest the rights of any claimant or claimants thereto.

SOURCE: CCP § 1269a.

§ 35103. Receiver of Income.

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The court, upon the information being filed, and upon application of the Attorney General, either before or after answer, upon notice to the party claiming the estate, if known, may upon sufficient cause therefor being shown, appoint a receiver to take charge of such estate, or any part thereof, or to receive the rents, income and profits of the same until the title of such estate is finally settled.

SOURCE: CCP § 1270.

§ 35104. Appearance: Trial: Sale.

All persons named in the information may appear and answer, and traverse or deny the facts stated therein at any time before the time for answering expires, and any other person claiming an interest in such estate may appear and be made a defendant, by motion, for that purpose, in open court within the time allowed for answering, and if no such person appears and answers within the time, then judgment must be rendered that the Government of Guam is the owner of the property in such information claimed. But if any person appears and denies the title set up by the Government of Guam, or traverses any material fact set forth in the information, the issue of fact must be tried as issues of fact are tried in civil actions. If, after the issues are tried, it appears from the facts found or admitted that the Government of Guam has good title to the property in the information mentioned, or any part thereof, judgment must be rendered that the Government of Guam is the owner and is entitled to the possession thereof, and that it recover costs of suit against the defendants who have appeared and answered.

In any judgment rendered escheating property to the Government of Guam, on motion of the Attorney General, the court must make an order that such property be sold and shall, if the value thereof is over One Hundred Dollars (\$100.00), appoint a receiver for that purpose. The property shall be sold in the manner prescribed for the sale of property upon execution. The person making the sale shall, within five days thereafter, make a report thereof to the court. Upon the hearing of such report, the court may examine the report and witnesses in relation thereto. If the sum bid was disproportionate to the value, of the proceedings of the sale were unfair or without proper notice, the court shall vacate the sale and direct that another sale be had, of which notice must be given and the sale conducted in all respects as if no previous sale had taken place.

If it appears to the court that the sale was legally made, and fairly conducted, and that the sum bid is not disproportionate to the value of the property sold, the court must make an order confirming the sale and

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directing the person making the sale, in the name of the Government of Guam, to execute the conveyance to the purchaser or purchasers. The person making the sale shall, after deducting the expenses of the sale allowed by the court, pay the proceeds to the Treasurer of Guam.

SOURCE: CCP § 1271.

§ 35105. Claim to escheated property.

Within five years after judgment in any proceeding had under this Chapter, a person not a party or privy to such proceeding may file a petition in the court having jurisdiction, showing his claim or right to the property, or the proceeds thereof. Said petition shall be verified and, among other things, must state:

1. The full name, and the place and date of birth of the decedent whose estate, or any party thereof, is claimed;

2. The full name of such decedent's father and the maiden name of his mother, the places and dates of their respective births, the place and date of their marriage, the full names of all children, the issue of such marriage, with the date of birth of each, and the place and date of death of all children of such marriage who have died unmarried and without issue;

3. Whether or not such decedent was ever married, and if so, when, where and to whom;

4. How, when, and where such marriage, if any, was dissolved;

5. Whether or not said decedent was ever remarried, and, if so, where, when, and to whom;

6. The full names, and the places and dates of birth of all lineal descendants, if any, of said decedent; the dates and places of death of any thereof who died prior to the filing of such petition; and the places of residence of all who were then surviving, with the degree of relationship of each of such survivors to said decedent;

7. Whether any of the brothers or sisters of such decedent ever married, and if so, where, when and to whom;

8. The full names, and the places and dates~ of birth of all children, the issue of the marriage of any such brother or sister of the decedent, and the date and place of death of all deceased nephews and nieces of said decedent;

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9. The post office names of the cities, towns, or other places, each in its separate connection, wherein are preserved the records of the births, marriages, and deaths hereinbefore enumerated, and, if known, the title of the public official or other person having custody of such records.

If for any reason the petitioner is unable to set forth any of the matters or things hereinabove, required, he shall clearly state such reason in his petition.

If it is determined that such petitioner is entitled to the property, the court shall, under seal of the court, certify the facts to the Governor of Guam with recommendations as to the amount of damages that the plaintiff should be allowed, but without interest or costs to the Government of Guam, and requesting a warrant for that amount be drawn on the treasurer. All persons who fail to appear and file their petitions within the time limit are forever barred, saving however, to infants, and persons of unsound mind the right to appear and file their petitions within the time limit or within one year after their respective disabilities cease.

SOURCE: CCP § 1272.

§ 35106. Unclaimed Bank Deposits Escheat to Government of Guam.

All amounts of money heretofore or hereafter deposited with any bank authorized to do business in Guam to the credit of depositors who have not made a deposit on said account or withdrawn any part thereof or the interest, and which shall have remained unclaimed for more than twenty years after the date of such deposit,, or withdrawal of any part of principal or interest, and where neither the depositor nor any claimant has filed any notice with such bank showing his or her present residence, shall, with the increase and proceeds thereof, escheat to the Government of Guam. Whenever the Attorney General shall be informed of such deposits, he shall commence an action or actions in the name of the Government of Guam, in the court having jurisdiction, in which shall be joined as parties the names of all such depositors. All or any number of depositors may be included in one action. Service of process in such action or actions shall be made by delivery of a copy of the complaint and summons to such bank and by publication. Upon the trial the court must hear all parties who have appeared therein and if it be determined that the moneys so deposited are unclaimed as hereinabove stated, then the court must render judgment in favor of the Government of Guam, declaring that said moneys have escheated to the Government of Guam.

SOURCE: CCP § 1273.

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CROSS-REFERENCES: P.L. 18-37 (5/30/86) amended the Banking Laws to require that banks transmit to the Government of Guam all inactive savings accounts, if they had been inactive for more than ten years. That same public law also amended the Banking Laws to provide procedures by which the sums could be claimed from the Treasurer of Guam and the procedures and notices the banks had to establish before transferring the moneys to the Treasurer.

§ 35107. Deposit of Unclaimed Property: Escheat to the Government.

All moneys or other property distributed in the administration of an estate of a decedent and heretofore or hereafter deposited with the Treasurer of Guam or the Director of Administration, to the credit of a distributee, and any money remaining with the Treasurer of Guam on deposit, to the credit of an estate, after final distribution, shall become the property of the Government of Guam, if not claimed by the person or persons entitled thereto within five years from the date of such deposit.

Money so deposited with the Treasurer may be recovered by the person or persons entitled thereto, under the conditions and within the time limit herein prescribed, by filing a petition for an order therefor in the court having jurisdiction. The judge of the court having jurisdiction, if satisfied of the claimant's right, must grant him a certificate to that effect, under its seal, and upon the presentation of the certificate, the auditor must draw his warrant on the Treasurer of Guam for the amount and forward it to the Governor of Guam for approval. -

SOURCE: CCP § 1274; *Director of Finance* changed to *Director of Administration* pursuant to authority of P.L. 9-239.

§ 35108. Unclaimed Moneys of Missing Persons.

Whenever any money in litigation in the court having jurisdiction or other money deposited in connection with such litigation is deposited with the Treasurer of Guam, and five years thereafter it is made to appear to the satisfaction of the court or judge, by affidavit or testimony taken in open court, that said money has not been, and cannot be paid out because the owner thereof cannot be found, the money devolves and escheats to the Government of Guam.

SOURCE: CCP § 1274a.
