

**12 GCA AUTONOMOUS AGENCIES**  
**CH. 11 PUBLIC DEFENDER SERVICE CORPORATION ACT**

**CHAPTER 11**  
**PUBLIC DEFENDER SERVICE CORPORATION ACT**

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**§ 11101. Short Title.**

This Chapter may be cited as the *Public Defender Service Corporation Act of 1975*.

**SOURCE:** §60000 GC, as enacted by P.L. 13-51.

**§ 11102. Definitions.**

(a) *Corporation* means the Public Defender Service Corporation.

(b) *Board* means the Board of Trustees of the Public Defender Service Corporation.

(c) *Director* means the Director of the Public Defender Service Corporation.

**SOURCE:** §60001 GC, as enacted by P.L. 13-51.

**§ 11103. Establishment.**

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In order to provide effective legal aid and assistance to those persons in Guam who are unable to afford counsel, there is created a public corporation to be known as Public Defender Service Corporation.

**SOURCE:** §60002 GC, as enacted by P.L. 13-51.

**§ 11104. Duties: Criminal Cases.**

It shall be the duty of the Corporation to defend indigent persons charged in criminal cases before the courts of Guam. The determination of whether a defendant is indigent and whether his case is to be referred to the Corporation shall be at the discretion of the judge before whom such defendant is appearing. The Corporation may assist the judges of the courts of Guam in ruling on cases of indigency and in establishing criteria for determining when the services of the Corporation are appropriate.

**SOURCE:** §60003 GC, as enacted by P.L. 13-51.

**§ 11104.1. Public Defender Assistance in Connection with Recovery and Probate of Land Claims Awards.**

The Public Defender is authorized to provide legal services in connection with the recovery of settlement shares and probate administration of land claims awards, to persons who are unable to obtain the legal services of a private attorney. No such services shall be provided unless the applicant therefor shall have produced proof, in form and substance approved by the Public Defender, that no less than three (3) private attorneys have declined to provide the requested services. The Public Defender shall not, in any event, represent any person who opposes or objects to, or who intends to oppose or object to, an application for payment of a settlement share, a petition for letters of administration or for preliminary or final distribution, or a petition pursuant to §4906 of Title 15 of the Guam Code Annotated, the subject of which is a land claims award.

**SOURCE:** Added by P.L. 19-34:24:D.

**§ 11105. Same: Civil Matters.**

The Corporation shall render legal aid and assistance to those persons in Guam, who, under rules established by the Corporation, are in need of legal assistance and representation and who are unable to afford an attorney in private practice. The Corporation shall not compete with attorneys engaged in the private practice of law in Guam and shall give

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legal assistance in civil matters only to those who would otherwise not receive such assistance.

**SOURCE:** §60004 GC, as enacted by P.L. 13-51.

**§ 11106. Powers.**

The Corporation has the power to do any and all things necessary to further the purposes of this Chapter and to perform the duties imposed by §§ 11104, 11105 and 11115.

**SOURCE:** §60005 GC, as enacted by P.L. 13-51; amended by P.L. 14-98.

**§ 11107. Board of Trustees.**

(a) All powers vested in the Corporation, except as otherwise provided in this Chapter, shall be exercised by the Board. The Board shall consist of five (5) Trustees: the Chief Justice of the Supreme Court of Guam, who shall be Chairman; the Presiding Judge of the Superior Court of Guam who shall be Vice-Chairman; the President of the Guam Bar Association; and two (2) members appointed by the Chief Justice of the Supreme Court of Guam, whose terms shall be for three (3) years. Neither person appointed by the Chief Justice shall be the Attorney General, or a member of his staff. The Trustees shall not be employees of the Corporation.

(b) Three (3) Trustees shall constitute a quorum of the Board for the transaction of all business. Subject to the provisions of the Administrative Adjudication Act, the Board may adopt rules and regulations governing the conduct of its affairs.

**SOURCE:** §60006 GC, as enacted by P.L. 13-51. Subsection (a) amended by P.L. 27-104:3.

**§ 11108. Director.**

The Board shall appoint a Director who shall have at least five (5) years experience in the practice of law. The Director shall be a member of the classified service. The Director shall have the sole responsibility to carry out the purposes and duties of the Corporation.

**SOURCE:** §60007 GC, as enacted by P.L. 13-51.

**§ 11109. Personnel.**

The Director is authorized to appoint a Deputy Director, and such other personnel, and fix their duties, under and in accordance with 4 GCA, as may be necessary for purposes of this Chapter.

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**SOURCE:** §60008 GC, as enacted by P.L. 13-51.

**§ 11110. Employment.**

(a) Pursuant to the provisions of 4 GCA §4105 the Board shall establish rules and regulations governing selection, promotion, performance evaluation, demotion, suspension and other disciplinary action for the employees of the Corporation.

(b) Employees of the Corporation shall be members of the Government of Guam Retirement Fund, subject to the provisions of 4 GCA §8105, except that for the purposes of Subsection (a) of said Section, the employees of the Corporation shall not be considered employees of a "public corporation," whereby their membership in the Fund is optional and membership therein must be specifically requested. The Corporation shall contribute to the Government of Guam Retirement Fund on the basis of annual billings as determined by the Board of Trustees, Government of Guam Retirement Fund, for the government share of the cost of the retirement benefits applicable to the Corporation's employees and their beneficiaries. The Corporation shall also contribute to the Workmen's Compensation Fund, on the basis of annual billings as determined by the Workmen's Compensation Commissioner, for the benefit payments made from such Fund on account of the Corporation's employees.

**SOURCE:** §60009 GC, as enacted by P.L. 13-51.

**§ 11111. Attorneys.**

The attorneys employed by the Corporation may practice before the courts of Guam on the same basis as other government attorneys pursuant to §28002.2 of the Government Code.

**SOURCE:** §60010 GC, as enacted by P.L. 13-51.

**NOTE:** See 7 GCA Chapter 9 and 9A for the latest law on the practice of law by attorneys working for the Government of Guam.

**§ 11112. Employees.**

The Director shall be a successor to the Public Defender of Guam. All employees of the Office of the Public Defender of Guam shall be transferred to the Public Defender Service Corporation.

Any person accepting employment under this Section shall receive not less than the straight-time rate of compensation he was receiving immediately before the transfer date. The other employment benefits and

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rights, including retirement and leave of such transferred employees, shall be governed by the provisions of § 11110 of this Chapter.

**SOURCE:** §60011 GC, as enacted by P.L. 13-51.

**§ 11113. Fiscal Authority Accounting; Expenditures.**

(a) There is hereby established a fund to be known as the "Public Defender Service Corporation Fund," which shall be maintained by the General Administrative Services of the Judicial Branch separate and apart from other funds of the Government, and independent records and accounts shall be maintained in connection therewith. Every quarter the financial statement of the Fund shall be furnished the Guam Legislature.

(b) All moneys received by the Corporation, from whatever source derived, shall be deposited in said Public Defender Service Corporation Fund in eligible banks as defined in §6311 of the Government Code.

(c) All expenditures shall be made from said Public Defender Service Corporation Fund.

(d) The Board shall adopt and maintain a uniform system of accounting.

**SOURCE:** §60012 GC, as enacted by P.L. 13-51.

**§ 11113.1. Lapses.**

The Public Defender Service Corporation shall be allowed to carry over all lapses from fiscal year to fiscal year, beginning with Fiscal Year 2000, notwithstanding any other provisions of law, or administrative provisions in public laws setting forth each fiscal year's budget. This provision shall remain in effect in all budgets hereafter, unless specifically amended or repealed by subsequent legislation. The language, notwithstanding any other provision of law, shall not constitute a specific repeal of this provision.

**SOURCE:** Added by P.L. 25-176:14.

**§ 11114. Transfer of Property.**

There is transferred to the Corporation all items of property now assigned to the Office of the Public Defender of Guam.

**SOURCE:** §60013 GC, as enacted by P.L. 13-51.

**§ 11115. Federal Landtakings: Legal Aid and Assistance.**

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Notwithstanding the provisions of § 11105 of this Title, the Public Defender Corporation shall assist and represent in court or otherwise persons who have apparently valid claims under §204 (relating to federal landtakings) of the Territorial Omnibus Act of 1977 (H.R. 6550). The Corporation shall render legal aid and assistance to any person who qualifies under the following guidelines:

1. A family or individual below one hundred fifty percent (150%) of the Community Service Administration's (CSA) Income Poverty Guidelines adjusted for Guam;
2. A family or individual who is receiving welfare benefits; or
3. A person who has been rejected, in writing, by two (2) private practicing members of the Guam Bar.

**SOURCE:** §60014 GC, as added by P.L. 14-98.

**§ 11116. Same: No Charge for Costs and Services.**

The Public Defender Corporation shall not charge claimants for its general costs or services or require a claimant to repay any filing fees or other court related fees incurred in the representation of the claimant. The Corporation may require assistance from any department or agency of the government of Guam in fulfilling its responsibility pursuant to this Chapter.

**SOURCE:** §60015 GC, as added by P.L. 14-98.

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