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CHAPTER 50
GUAM ECONOMIC DEVELOPMENT AND COMMERCE AUTHORITY

- Article 1. GEDCA Administration.
- Article 2. Guam Product Seal.
- Article 3. Guam Road Construction Mitigation, Grant and Loan Guarantee Program.
- Article 4. Guam Film Office.

ARTICLE 1
GEDCA ADMINISTRATION

NOTE: Due to the increasing content and complexity of 12 GCA Chapter 2, *Guam Economic Development Authority*, the Compiler has transferred all of what was in Chapter 2 of this Title to the various Chapters which correspond to the former Articles of Chapter 2. For purposes of clarity and to permit the Legislature further expansion of the law relative to GEDA, the Chapters have been numbered to permit gaps to be filled later. Chapter 50 was formerly Article 1 of 12 GCA Chapter 2.

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§ 50101. Guam Economic Development and Commerce Authority.

There is hereby created a public, non-profit corporation to be known as the Guam Economic Development Authority (“*Authority*”) with functions, powers and responsibilities as hereinafter provided. Any reference in any law to the Guam Economic Development and Commerce Authority (“*GEDCA*”) shall mean and be read as the Guam Economic Development Authority, and all references therein to the Administrator of GEDCA shall mean and be read as the Administrator of the Authority.

All references in any contract, Executive Order, rule, regulation or document to GEDCA, or the Administrator of GEDCA shall mean and be read as the Authority and the Administrator of the Authority, respectively.

SOURCE: GC § 53550. R/R by P.L. 26-76:34 to reflect the addition of Dept. Commerce functions in GEDA. Repealed and Reenacted by P.L. 29-113:VI:80 (Sept. 30, 2008).

§ 50102. Principal Offices.

The principal office of the Corporation shall be located in the territory of Guam and the Corporation shall be deemed to be a resident of Guam.

SOURCE: GC §3551.

§ 50103. Purposes and Authorized Activities of Corporation.

(a) It is the purpose of this Division to create a public non-profit corporation to assist in the implementation of an integrated program for the economic development of Guam. It is intended for this Corporation to be a catalyst in the economic development which this Division seeks, aiding private enterprise without unfairly competing with it. It is a further purpose of this Division to enable the Corporation to expand the supply of money available in the territory of Guam to finance the construction of residential dwellings, including single family dwellings, multiple family dwellings, condominiums and cooperative apartments. It is hereby declared that there exists in the territory of Guam a substantial and serious shortage of housing in all categories, and that this shortage is inimical to the health and welfare of the residents of the Territory and to the economic development of the Territory. The inadequate supply of such housing results in the continuing existence and proliferation of

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substandard and decadent housing, with all its attendant consequences of disease, crime, injuries, retardation of education, and high costs of services such as police and fire protection. It will thus serve the public welfare to stimulate an increase in the supply of decent, safe and sanitary housing, not only insofar as it benefits those who live in such housing but in that such housing will materially assist in the prevention of crime, the improvement of education, the reduction of hazards from fire or structurally unsafe buildings, the improvement of the public health and a lowering of the cost of services. The expansion of the supply of housing in Guam is seriously hindered by a substantial, serious and continuing shortage of long-term mortgage money, resulting in part from the inability of United States based insurance companies to provide mortgage money in Guam because of United States income tax reasons. It is, therefore, imperative that mortgage financing be made available and the supply of available money to finance housing construction be increased. Without the assistance contemplated in this Division, the financing of or construction of decent, safe and sanitary housing in sufficient amounts to house the residents of Guam cannot be accomplished. A public exigency exists which makes the assistance contemplated by this Division a public purpose, and the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination. The Legislature has also found and determined that there exists an acute shortage of adequate, modern and efficient hospital facilities in Guam and that unless measures are adopted to alleviate such conditions, the need for such facilities will become increasingly more urgent and serious. It is hereby declared that the safety, health and welfare of the people of Guam requires the provision of adequate, modern and efficient hospital facilities in the various parts of the Territory, and that it is the policy of the Territory and a purpose of this Division to provide the means necessary for the acquisition, construction and provision of hospital facilities to serve the general public and to make reasonably accessible to all the people of Guam modern and efficient hospital facilities. The Legislature has further found and declared that the financing, acquisition, construction, reconstruction, rehabilitation or improvement of hospital facilities and the provision of such facilities as may be incidental or appurtenant thereto are public uses and public purposes for which public money may be expended and that the enactment of this Division is necessary and proper for effectuating the purposes hereof as hereinafter provided. The

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Legislature hereby further finds and determines that there exists in the Territory conditions of substantial and persistent unemployment, thus adversely affecting the economy of our island and the prosperity, safety, health and general welfare of its inhabitants and their standard of living; and that the availability of financial assistance and suitable facilities are important inducements to new and varied employment promoting enterprises to locate in the Territory, and to existing enterprises to remain and expand in our island. The provision of buildings, structures and other facilities to increase opportunity for employment in manufacturing, industrial, commercial, recreational, retail and service enterprises in the Territory is in the public interest and is a public purpose to induce and accelerate opportunity for employment in such enterprises. In order to aid in supplying these needs and to assist in the immediate reduction of unemployment and to provide sufficient employment for the citizens of the Territory in the future, it is necessary and in the public interest to aid and encourage the immediate commencement of new construction projects of all types. The availability of financial assistance by the Territory will reduce present unemployment and improve future employment opportunities by encouraging and inducing the undertaking of such construction projects, the location, retaining or expanding of employment promoting enterprises with the Territory. By virtue of the Territory's architectural and cultural heritage, its positions as principal centers of communication and transportation, this government is capable of ameliorating the conditions of deterioration which impede sound community growth and development; and that building a proper balance of industrial and commercial facilities and increasing the attractiveness of the Territory to persons of all income levels is essential to the Territory as a desirable place to live, work, shop and enjoy life's amenities; that the accomplishment of these objectives is beyond remedy solely by regulatory process and cannot be dealt with effectively by the ordinary operations of private enterprise without the powers provided herein, and that the exercise of the powers herein provided is critical to continuing the process of revitalizing the Territory and will serve an urgent public use and purpose. In order to aid in remedying the aforesaid conditions and to further and implement the purposes of this Division, the authority and powers conferred under this Division and expenditure of money pursuant thereto constitute a serving of a valid public purpose and that enactment of the provisions of Article 5 of this Division is in the

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public interest and for the public benefit and good and is so declared to be as a matter of expressed legislative determination.

(b) The Corporation is authorized to control and implement that part of the basic plan for the economic development of Guam, assigned to it by the Governor of Guam. The Corporation shall also be an active participant in the development of said basic plan.

(c) The Corporation is authorized to conduct or cause to be conducted research into natural resources, experiments, marketing methods and export possibilities, and to make known and publicize the results of such activities; provided, however, that when the Corporation proposes to enter into any research or similar investigative activity, it shall first ascertain that such activity is not being duplicated elsewhere in the government of Guam.

(d) The Corporation is authorized to promote investments of entrepreneurial capital in Guam, if need be form and operate its own industries, invest in and provide technical assistance in support of its objectives, develop and maintain facilities for lease or sale and provide for the expansion of agricultural, industrial, hospital, housing and tourist facilities through financial assistance and other means.

(e) Except as specifically prohibited herein, the Corporation is authorized to make loans or guarantees of loans to any persons, firm, partnership or corporation licensed to do business in Guam in furtherance of the purposes and activities stated in this Division. All loans so made shall be of such sound value or so secured as to reasonably assure repayment, or shall be of such vital need to the economy of Guam as to warrant additional risks or subsidies. Each loan made by the Corporation may be sold to a commercial lending institution for a sum not less than the principal balance of said loan and the proceeds thereof returned to the capital fund of the Corporation, subject to the terms of any resolution of the Board of Directors of the Corporation authorizing the issuance of revenue bonds. Each loan made by the Corporation shall include, wherever possible, an option on the part of the Corporation to convert up to fifty percent (50%) of the total loan so made into equity of one form or another.

(f) The Corporation is authorized to issue, sell or dispose of revenue bonds and other obligations from time to time under such terms and conditions as the Guam Legislature, by appropriate legislation may

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prescribe. The proceeds of such bonds and obligations shall be used solely to finance specifically authorized corporate programs.

(g) The Corporation is authorized to invest its funds in any enterprise, undertaking or other activity which, in its judgment, will further development of desirable agriculture, industry, hospital facilities, housing and commerce, and of tourism in this Territory.

(h) The Corporation is authorized to obtain land belonging to the government of Guam as required to carry out its purposes and objectives, under such terms and tenure as the Legislature, by appropriate legislation, may prescribe.

(i) The Corporation is authorized to purchase from any person, firm, corporation or governmental entity, and to refinance, mortgages on residential real property, including single family dwellings, multiple family dwellings, condominiums and cooperative apartments, which are insured or guaranteed by an agency or instrumentality of the United States of America, by the territory of Guam, or by any other person, firm, corporation or governmental entity approved by the Board of Directors of the Corporation. The Corporation is also authorized to make commitments to purchase mortgages, conditioned upon the insurance of such mortgages by an agency or instrumentality of the United States of America, by the territory of Guam, or by any other person, firm, corporation or governmental entity approved by the Board of Directors of the Corporation.

Notwithstanding anything to the contrary herein, the Corporation is not authorized to make direct loans to any person, firm, corporation or governmental entity on residential real property, including single family dwellings, multiple family dwellings, condominiums and cooperative apartments.

(j) The Corporation is designated and authorized to be a development company as that term is defined in §662 of Title 15 of the United States Code.

(k) The Corporation shall act as a central financial manager and consultant for those agencies or instrumentalities of the Government requiring financial guidance and assistance. Such technical assistance by the Corporation shall include, but not be limited to, obtaining of funds through bond or other obligations, structuring such bond issuances,

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preparation and dissemination of financial and investment information, including bond prospectuses, development of interest among investment bankers and bond brokers, maintenance of relationships with bond rating agencies and brokerage houses and, generally, acting as the centralized and exclusive financial planner and investment banker for all the agencies and instrumentalities of the Government to include, but not be limited to, such public corporations as the Guam Economic Development and Commerce Authority, the Jose D. Leon Guerrero Commercial Port of Guam, the A.B. Won Pat International Airport Authority Guam, the Guam Power Authority, the Guam Memorial Hospital Authority, the University of Guam, *the Guam Waterworks Authority* and all other agencies or instrumentalities of the Government given the power, now or in the future, to issue and sell bonds or other obligations for the purpose of raising funds. Such agencies or instrumentalities of the Government shall issue bonds and other obligations only by means of and through the agency of the Corporation, and each such agency or instrumentality shall furnish the Corporation long-term estimates of financial needs so that the Corporation can coordinate a long-term plan for obtaining necessary funds for all such agencies and instrumentalities on a rational, non-competitive and efficient basis. The Corporation shall not issue or sell any bond without the approval of *I Liheslatura* of the terms and conditions of the bonds. For the purpose of this Subsection, the terms bond or other obligations do not include an instrument evidencing debt for a term of one (1) year or less. The provisions of this Section whereby the Corporation shall act as a central financial manager and consultant for those agencies requiring financial assistance shall not apply to those bonds or obligations which are sold by or to an agency of the Government of the United States, however, the provisions of this Section where *I Liheslatura* must approve the terms and conditions of the issuance of the bonds shall apply to said bonds or obligations. The provisions of this Subsection shall *not* apply to bonds or other obligations issued pursuant to Article V or Article VI of this Division on or before March 31, 1984, provided such bonds or other obligations are secured by a pledge of and lien upon the revenues and other funds or moneys derived from the projects or programs financed by the proceed of the sale of such bonds or other obligations and *not* by revenues and other funds or moneys derived from other projects or programs of the Corporation.

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(l) The Corporation is authorized to make loans or to guarantee loans to non-profit cooperative associations licensed to do business in Guam in furtherance of the purposes and activities stated in this Act. All loans or guarantees so made shall be of such sum, value or so secured as to reasonably assure repayment or shall be of such vital need to the economy of Guam as to warrant additional risk or subsidies. As used in this subsection, *non-profit cooperative association* means any corporation organized under the provisions of 18 GCA Chapter 13.

(m) The Guam Economic Development Agency (GEDA) shall be responsible for actively promoting Guam as a location for the establishment of Export trading companies.

(n) The Authority shall promote and encourage the expansion and development of markets for the products of Guam.

(o) The Authority shall promote and encourage the location and development of new businesses on Guam, as well as the retention and expansion of existing businesses, with particular emphasis upon encouraging the tourist and the large-scale fisheries industries.

(p) An individual or business *shall* be ineligible for GEDA loans, leases, grants or other assistance if that individual or business, *or* any of its officers and/or directors, owners, partners, *or* shareholders that have *more than* five percent (5%) ownership interest in said business, including indirect ownership *or* other interest through proxy or trust, *or* sister parent *or* subsidiary ownership interest(s), personally *or* through a relative within one (1) degree of consanguinity, has:

(1) a record of delinquency that results in loan default on financial assistance obtained from GEDA or any other instrumentality of the government of Guam, unless borrower fully honored a work-out agreement to the satisfaction of the creditor;

(2) failed to meet and fulfill the terms and conditions of receiving GEDA assistance;

(3) a past due or unpaid civil judgment in the Superior Court of Guam; *or*

(4) engaged in any activity that has resulted in conviction of a felony *or* a crime of moral turpitude in the Courts of Guam, the United States and its territories, or foreign jurisdiction. This Section

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shall *not* apply in the event that the prosecution is dismissed with prejudice.

SOURCE: GC § 53552; Subsection (a) amended by P.L. 11-33, 12-69 and 16-66; Subsection (d) amended by P.L. 11-33 and 12-69; Subsection (e) amended by P.L. 11-33; Subsection (g) amended by P.L. 11-33 and 12-69; Subsection (i) added by P.L. 11-33; Subsection (j) added by P.L. 16-35; Subsection (k) added by P.L. 16-66 amended by P.L. 17-37, 17-39, 17-74; Subsection (l) added by P.L. 16-125 as (u); Subsection (m) added by P.L. 17-67; Subsection (l) amended by P.L. 20-97:1. Subsections (n), (o) and (p) added by P.L. 26-076:35; 36 and 37 (Mar. 12, 2002). The entire section 50103 was repealed and reenacted by P.L. 27-110:12. Section 50103 as it existed prior to P.L. 27-110:12 was reenacted by P.L. 28-068:IV:71 (Sept. 30, 2005) which states:

P.L. 27-110:12 is hereby repealed and of no effect as of the date of its enactment, except as provided herein, and the acts of the Guam Economic Development and Commerce Authority between said enactment and the present are not affected by its enactment.

Subsection (p) repealed by P.L. 28-068:IV:53 (Sept. 30, 2005). Subsection (k) amended by P.L. 28-068:IV:71 (Sept. 30, 2005); P.L. 28-071:5 (effective Sept. 30, 2005). Subsection (a) amended by P.L. 29-113:VI:81 (Sept. 30, 2008). Subsection (p) added by P.L. 30-077:2 (Feb. 8, 2010). Subsection (p)(4) amended by P.L. 31-018:2 (Apr. 18, 2011).

§ 50103.1. Procedure for Issuing Bonds Pursuant to 12 GCA 2103 (k).

(a) Bond Counsel. An experienced bond counsel shall be retained for each bond obligation issued by the Authority following General Services Administration procurement guidelines dealing with legal services. A bond counsel may be either kept on retainer or contracted separately for each issue. The Authority's bond counsel shall represent only the Authority and the government of Guam in each issue and neither the bond counsel nor any member of counsel's firm shall represent any other interest in each bond issue. The bond counsel shall be involved at every level of decision making regarding bond issues.

(b) Underwriters. The Authority shall select underwriters based on the following procedures:

(1) Underwriters shall be chosen from replies to requests for proposals (RFPs) issued by the Authority. A minimum of five (5) underwriters shall be sent RFPs for each bond issue. A minimum of two (2) replies to RFPs must be received or the RFPs shall be cancelled and new RFPs issued.

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(2) All of the replies to RFPs shall be received at a location to be determined by the Authority prior to issuance of the RFPs and maintained there unopened until the date set for opening. One (1) person shall be responsible for the custody of the proposals to ensure the integrity of the process.

(3) The Authority shall designate one (1) person to handle all communications with underwriters to ensure continuity of information. All communications with underwriters shall be channeled through this individual who shall speak for the Authority. Copies of all communications to and from the designee and the underwriters shall be made available to all members of the Board.

(4) Members of the Board shall not discuss with underwriters any proposal currently under consideration.

(5) The Authority shall set a date for the opening of the replies to RFPs from underwriters. The presence of a quorum of the Board shall be required for the initial opening of the replies to RFPs and sufficient copies of the replies to RFPs shall be made available to the Board. After the replies to RFPs are distributed to the Board, the meeting may be adjourned and reconvened but only within 15 (fifteen) working days of the opening of the replies to RFPs.

(6) Upon selection of an underwriter, the selected and unselected underwriters shall be immediately notified of the action. No modifications to the replies of RFPs submitted by the underwriters shall be allowed after opening, except that, if the Authority narrows the selection to two (2) or more underwriters, final presentations by the narrowed group of underwriters shall be presented to the Board at a time and place to be determined by the Board, and minor modifications and clarifications of the proposals will be permitted. If the selection process is carried over to a meeting outside of Guam, this final selection process shall either be videotaped or voice recorded for presentation to the whole Board. After reviewing the final presentations of the narrowed group of underwriters, the Board shall, within 10 (ten) working days of final presentation, select either one (1) managing underwriter or two (2) co-managing underwriters for the bond issue.

(c) Trustee. Trustees shall be chosen from replies to RFPs issued by the Authority. RFPs shall be sent to a minimum of three (3) trustees for

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each bond issue. The Authority shall establish a deadline which will give interested parties sufficient time to prepare replies to RFPs and sufficient time to transmit the replies to a specified location. Replies shall be opened at a specified location and time by a specified designee of the Board, in accordance with Guam's open government laws. A minimum of two (2) replies to RFPs must be received or the RFPs shall be cancelled and new RFPs issued.

(d) Depository. Depositories shall be chosen from replies to RFPs issued by the Authority. RFPs shall be sent a minimum of three (3) depositories for each bond issue. The Authority shall establish a deadline which will give interested parties sufficient time to prepare replies to RFPs and sufficient time to transmit their proposals to a specified location. Replies shall be opened at a specified location and time by a specified designee of the Board, in accordance with Guam's open government laws. A minimum of two (2) replies to RFPs must be received or the RFPs shall be cancelled and new RFPs issued.

(e) Municipal Paying Agent. Municipal paying agents shall be chosen from replies to RFPs issued by the Authority. RFPs shall be sent to a minimum of three (3) reputable municipal paying agents for each bond issue. The Authority shall establish a deadline which will give interested parties sufficient time to prepare replies to RFPs and sufficient time to transmit the replies to a specified location. Replies shall be opened at a specified location and time by a specified designee of the Board, in accordance with Guam's open government laws. A minimum of two (2) replies to RFPs must be received or the RFPs shall be cancelled and new RFPs issued.

(f) Financial services. In lieu of the provisions of 2103.1 (c), (d) and (e), the Authority may opt to choose one firm to perform all financial services described in 2103.1 (c), (d) and (e). The provider of financial services shall be chosen from replies to RFPs issued by the Authority. A minimum of five (5) firms shall be sent RFPs for each bond issue. A minimum of two (2) replies to RFPs must be received or the RFPs shall be cancelled and new RFPs issued.

(g) GEDA *shall* undertake its best efforts to cause a portion of any bonds issued or sold by the Guam Economic Development Authority on behalf of the government of Guam or any entity of the government, to be offered for sale to residents of Guam, as well as to residents of other

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jurisdictions, *if* and to the extent that such offer and any sales resulting from such offer *do not* increase the costs to the government of issuing and repaying such bonds.

GEDA *shall* announce such bond issue in the local media outlets and solicit interest from local financial institutions, investment companies, and investor representatives. GEDA *shall* accept pre-issuance subscription orders for such bonds *prior* to such bonds being offered to the non-local market. Upon the determination of market pricing of such bonds, GEDA *shall* notify the local purchaser who *shall* inform GEDA of a decision and commit to the purchase and execute all documents necessary to complete such purchase.

SOURCE: Added by P.L. 19-12:1. Subsection (g) added by P.L. 30-191:1 (Aug. 28, 2010).

§ 50103.2. Award.

Award shall be made to the responsible offeror whose proposal in writing is the most advantageous to the territory taking into consideration price and the evaluation factors set forth in the RFPs. The contract file shall contain the basis on which the award is made.

SOURCE: Added by P.L. 19-12:1.

§ 50104. General Powers: Termination Date.

The Corporation shall have, and may exercise, the following general powers in carrying on the activities specified in § 50103 of this Division:

- (a) To have perpetual succession, unless sooner terminated by law.
- (b) To adopt, alter and use a corporate seal, which shall be judicially noticed.
- (c) To adopt, amend and repeal bylaws and other rules, regulations and directives governing the conduct of its business, and the performance of the powers and duties granted to or imposed upon it by law. No rule or regulation other than that covering the internal conduct of the Corporation shall be adopted without a public hearing thereon in the manner prescribed by law.
- (d) To sue and to be sued in its corporate name.

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(e) To determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed and paid.

(f) To acquire, in any lawful manner, any real property, and to hold, maintain, use and operate the same; and to sell, lease, encumber or otherwise dispose of the same, whenever any of the foregoing transactions are deemed necessary or appropriate to the conduct of the activities authorized by this Division, and on such terms as may be prescribed by the Corporation.

(g) To enter into and perform such contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States, or with any state, territory or possession or any political subdivision thereof, or with any person, firm, association or corporation, as may be deemed necessary or appropriate to the conduct of the activities authorized by this Division, and on such terms as may be prescribed by the Corporation.

(h) To execute all instruments necessary or appropriate in the exercise of any of its functions.

(i) To employ such employees to provide such clerical and technical assistance as may be necessary for the conduct of the business of the Corporation; to delegate to them such powers and to prescribe for them such duties as may be deemed appropriate by the Corporation; to fix and pay such compensation to them for their services as the Corporation may determine without regard to the provisions of the personnel and compensation law; to require bonds from such of them as the Corporation may designate, the premiums therefor to be paid by the Corporation, and to remove and discharge such employees and other clerical and technical assistants, pursuant to the provisions of the personnel regulations adopted pursuant to the provisions of 4 GCA § 4105 and § 4106.

(j) To accept gifts or donations of services, or of property -- real, personal or mixed, tangible or intangible -- in aid of any of the activities authorized by this Division.

(k) In accordance with Title 5 GCA Chapter 5 (Procurement Law), to construct, equip, operate and maintain buildings, works,

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factories, plants, forms, fisheries and other facilities, including all equipment, supplies and machinery incident thereto.

(l) To form or cause to be formed, to promote, to aid and to invest in any manner within its means in the promotion of any corporation or other association, and to cause or participate in the merger, consolidation, reorganization, liquidation or dissolution of any corporation or association in which, or in the business of which the Corporation shall have direct or indirect interest.

(m) To settle and adjust claims held by it against other persons or parties and by other persons or parties against the Corporation.

(n) To borrow funds required to finance revenue producing projects, and to dedicate revenue derived therefrom to the repayment of such loans.

(o) To recommend to the Governor of Guam the issuance, modification, revocation and suspension of Qualifying Certificates in accordance with the provisions of this Division. This power does not include the power to recommend that the Governor of Guam execute Exclusive Certificates.

(p) The Corporation shall submit to the Legislature, through the Governor of Guam, from time to time such legislation as it deems necessary to expeditiously and effectively foster desirable industry, commerce, hospital facilities, housing and tourism in this Territory.

(q) To take such action and carry on any other operations and do all that may be necessary or appropriate to carry out the powers and duties herein or hereafter specifically granted to or imposed upon it.

(r) To endorse, guarantee and secure the payment and satisfaction of bonds, coupons, mortgages, deeds of trust, debentures, obligations, evidences of indebtedness and shares of stock of other corporations, as far as and to the extent that the same is necessary and appropriate to carry out the Corporation's authorized and permissible activities under its powers and functions.

(s) To purchase from any person, firm, corporation or governmental entity, and to refinance, mortgages on residential real property, including single family dwellings, multiple family dwellings, condominiums and cooperative apartments, which are

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insured or guaranteed by an agency or instrumentality of the United States of America, by the territory of Guam, or by any other person, firms, corporation or governmental entity approved by the Board of Directors of the Corporation; to make commitments to purchase mortgages, conditioned upon the insurance or guarantee of such mortgages by an agency or instrumentality of the United States of America, by the territory of Guam, or by any other person, firm corporation or governmental entity approved by the Board of Directors of the Corporation; to impose fees and charges for its services; and through its Board, to issue such rules and regulations as may be necessary to carry out the provisions of this Division.

(t) To negotiate an agreement guaranteeing a loan for the construction of tourist attractions depicting the historical and cultural development of the Chamorro people. The guarantee agreement shall provide that the real property and improvements be pledged to the lender as security for repayment of the loan or to the Authority as security for the guarantee. Revenues collected by any such facility shall be pledged for repayment of the loan.

(u) To acquire in accordance with Title VII-A of the Government Code, any tangible personal property and to hold, maintain, use and operate the same; and to sell, lease, encumber or otherwise dispose of the same, whenever any of the foregoing transactions are deemed necessary or appropriate to the conduct of the activities authorized by this Division, and on such terms as may be prescribed by the Corporation.

(v) To acquire, in any lawful manner, any intangible personal property, and to hold, maintain, use and operate the same; and to sell, encumber or otherwise dispose of the same, whenever any of the foregoing transactions are deemed necessary or appropriate to the conduct of the activities authorized by this Division, and on such terms as may be prescribed by the Corporation.

SOURCE: GC § 53553; Subsection (f) amended by P.L. 16-124; Subsection (i) amended by P.L. 16-23; Subsection (k) amended by P.L. 16-124; Subsection (o) amended by P.L. 16-35; Subsection (p) amended by P.L. 11-33 and 12-69; Subsection (s) added by P.L. 11-33 amended by P.L. 17-39; Subsection (t) added by P.L. 16-88; Subsections (u) and (v) [originally added as (t) and (u)] added by P.L. 16-124.

§ 50105. Board of Directors.

All functions and powers of the Corporation shall be vested in and be exercised by and under the direction of a Board of Directors hereinafter referred to as the Board, composed of seven (7) members, appointed by the Governor of Guam with the advice and consent of the Guam Legislature. Members of the Board shall serve for a term of four (4) years. The Governor shall appoint a member of the Board to serve as Chairman.

SOURCE: GC § 53554.

§ 50106. Administrator.

The Governor of Guam, upon the recommendation of the Board and with the consent of the Guam Legislature, shall appoint an Administrator who shall be directly responsible to the Board for the day-to-day operation of the Corporation and shall administer its programs and policies. The Administrator shall be an ex officio member of the Board, without the right to vote therein. His term of office shall be fixed by the Board, unless sooner terminated by the Governor upon the recommendation of the Board.

SOURCE: GC § 53555.

§ 50107. Same: Salary and Expenses.

The Administrator shall be paid a salary and such other allowances and emoluments as the Board may approve.

SOURCE: GC § 53556.

§ 50108. Qualifications for Directors.

The Board members to be appointed by the Governor of Guam as above state shall be U.S. citizens, selected from individuals who have resided in Guam at least six (6) continuous months immediately preceding their appointments, who have demonstrated their ability and their attachment to public interest, and selected to provide diversified experience among Board members. The Administrator shall be a U.S. citizen, appointed without regard to the provisions of Personnel Laws and who possesses qualities, knowledge, experience and diversified ability necessary to pursue effectively the program of the Corporation, regardless of the length of his previous residence on Guam.

SOURCE: GC § 53557.

§ 50109. Board of Directors. Miscellaneous Provisions.

(a) The Board shall be responsible for the management, administration, policies and direction of the Corporation and shall exercise supervision through the Administrator.

(b) The Board shall meet in regular session at least once each month, and in special session as often as it may deem necessary.

(c) A majority of the Board shall constitute a quorum for the transaction of business. The Board shall act by the vote of at least four (4) of its members.

(d) The Directors shall receive no salary for their services on the Board, but in amounts prescribed by the Board, they may be paid a reasonable per diem not to exceed Fifty Dollars (\$50.00) for attendance at meetings of the Board and reasonable travel allowances for time spent on official business of the Corporation.

SOURCE: GC § 53558, as amended by P.L. 13-195.

CROSS-REFERENCES: See 5 GCA § 43104 for further limitations on Board compensation.

§ 50110. Corporate Use of Funds.

(a) The Corporation is authorized to use its funds, from whatever source derived, in the exercise of its corporate powers and functions.

(b) The Corporation shall contribute to the Government of Guam Retirement Fund on the basis of annual billings as determined by the Department of Administration, for the Government's share of the costs of the retirement benefits applicable to the Corporation's employment and their beneficiaries. The Corporation shall provide Workmen's Compensation coverage for its employees.

SOURCE: GC § 53559.

§ 50111. Annual Report and Audits.

The Corporation shall submit to the Governor of Guam and the Guam Legislature a detailed annual report of activities and an audited annual financial report. For this purpose, it shall contract for independent auditing services. It shall also submit to the Governor of Guam and the Guam Legislature such other special reports as they may require from

time to time. The Corporation's books shall likewise be subject to annual legislature audit as prescribed by law.

SOURCE: GC § 53560.

§ 50112. Utilization of Governmental Agencies and Instrumentalities.

The services and facilities of agencies and instrumentalities of the Federal Government and of the government of Guam may be made available to the Corporation in the exercise of its functions to the extent allowed by law.

SOURCE: GC § 53562.

§ 50113. Amendments and Repeal of Statutes.

1. Title XLIX of the Government Code of Guam, known as the Guam Incentive Tax Act is hereby repealed in its entirety, provided however, that any tax incentives heretofore granted to any person, firm, partnership or corporation under the provisions of said Act shall continue to be respected and honored by the government of Guam as long as the beneficiary of such benefits complies with the terms and conditions appearing on the face of the certificate of tax exemption or tax subsidy issued to that beneficiary.

2. Title XLVIII of the Government Code of Guam creating the Economic Incentive Commission is hereby repealed in its entirety.

SOURCE: GC § 53590.

§ 50114. Division to Be Liberally Construed.

This Division shall be construed liberally so far as may be necessary for the purpose of effecting its general intent. The declaration of invalidity or nullity of any provision of this Division by competent court shall not effect the force and validity of the remaining provisions.

SOURCE: GC § 53591.

§ 50115. Operating Fund Appropriation.

There is hereby appropriated and set aside, for transfer to the Corporation effective 1 July 1965, as its operating fund, out of any money in the Treasury of Guam not otherwise appropriated, the sum of One Hundred Thousand Dollars (\$100,000) for operating expenses of said Corporation up to and including 30 June 1966.

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SOURCE: GC § 53593.

§ 50116. Loan Guarantees.

The government of Guam will guarantee up to One Million Six Hundred Thousand Dollars (\$1,600,000) of loans guaranteed by the Guam Economic Development Authority, or of loans made directly to the Guam Economic Development Authority, by any financial institutions for the purpose of carrying out its development projects, but not to exceed Four Hundred Thousand Dollars (\$400,000) in any one (1) fiscal year beginning July 1, 1968, and further, not to exceed Two Hundred Thousand Dollars (\$200,000) on any one (1) project.

SOURCE: GC § 53595.

§ 50117. Rules and Regulations.

The Corporation shall review and revise its existing standard operating procedures, and create rules and regulations ('Rules'), for the Corporation regarding loans, tax qualifying certificates, and all other functions and operations of the Corporation in accordance with the provisions of the Administrative Adjudication Law. Such Rules shall include procedures for assisting those small business concerns participating in the A-76 Performance of Commercial Activities, as authorized in § 54103 of Title 12 of the Guam Code Annotated. The Corporation shall complete this process of revising its Rules within thirty (30) days from the enactment of this provision into law.

SOURCE: Added by P.L. 19-13:6. Amended by P.L. 24-295:9.

§ 50117.1. Amendments.

Any subsequent change in the rules and regulations shall be made in accordance with provisions of the Administrative Adjudication Act.

SOURCE: Added by P.L. 19-13:6.

ARTICLE 2
GUAM PRODUCT SEAL

SOURCE: This Article was added by P.L. 26-76:38 as part of the transfer of the Dept. of Commerce activities to GEDCA.

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- § 50201. Seal Created.
- § 50202. Administration.
- § 50203. Guam Product Seal Fund.
- § 50204. Responsibilities.
- § 50205. Definitions.
- § 50206. Eligibility.
- § 50207. Violations.
- § 50208. Fines.
- § 50209. Recovery of Merchandise.
- § 50210. Penalty.
- § 50211. Collection.

§ 50201. Seal Created.

There is created a Guam Product Seal to identify products manufactured on Guam.

§ 50202. Administration.

The Guam Economic Development and Commerce Authority ('Authority') shall administer the provisions of this Chapter and shall promulgate rules and regulations, in accordance with the Administrative Adjudication Law, to carry out the purposes of this Chapter.

§ 50203. Guam Product Seal Fund.

There is established a fund to be known as the Guam Product Seal Fund, which shall be maintained separate and apart from any other funds of the government of Guam. Independent records and accounts shall be maintained in connection therewith. Funds of the Guam Product Seal Fund shall be used exclusively for the administration and operations of the Guam Product Seal Program. All funds collected from fees, charges or fines levied pursuant to this Chapter shall be deposited into the Guam Product Seal Fund.

§ 50204. Responsibilities.

The Authority shall:

- (a) develop, or have developed, a design for the Guam Product Seal;

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(b) assess the local value added in the production processes of manufacturers applying for permission to place the seal upon their products;

(c) issue permits for use of the seal to eligible applicants;

(d) ensure ongoing compliance with the eligibility requirements by all manufacturers who have been issued permits;

(e) conduct field investigations of products bearing the seal, both on its own initiative and in response to information and complaints received from the public;

(f) levy fines on manufacturers, importers, distributors and retailers found to be in violation of this Chapter;

(g) transmit information regarding the levy of fines to the Department of Revenue and Taxation; and

(h) take appropriate steps to notify businesses about the requirements of this Chapter.

§ 50205. Definitions.

For purposes of this Chapter:

(a) ‘*Value added*’ shall be the difference between the wholesale price of the product, if sold at wholesale, or the retail price of the product, if sold directly by the manufacturer, and the sum of both the total landed cost of all material components of the product that have been brought into Guam and the total landed cost of materials, excluding machinery used in the production process that have been brought into Guam.

(b) ‘*Substantial transformation*’ shall mean the conversion of commodities into products of a different and distinguishable commercial use or character.

(c) “*Article*” shall mean the commodity or product in a package or container that is available for purchase by the consumer.

(d) “*Perishable consumer commodity*” shall mean an article packaged and offered for consumption as a food product or for use by individuals for the purpose of personal care or in the performance of services ordinarily rendered in or about the household in connection with personal possessions; and is intended

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to have a limited shelf life, including, but *not* limited to, articles such as baked goods, dairy products, cut or dried flowers, fruits, vegetables and meats; coffee, candies, cookies, jams, jellies, juices, oils, nuts, or such similar products.

(e) “*Standard Labeling Practices*” shall be defined by the most current rules and regulations that have been established by the United States Food and Drug Administration relative to General Food Labeling Requirements.

(f) “*Permanent*” refers to the print on the article’s packaging or container designed to remain until received by the end user or ultimate purchaser at the point of sale in a retail establishment.

(g) “*Legible*” shall mean markings which are clearly identified and which can be read without strain.

(h) “*Conspicuous*” shall be reflected by markings which appear on the article’s packaging or container in a place which is readily accessible, and where the marking noting the product’s origin can be found upon casual examination.

SOURCE: Subsections (c) through (h) added by P.L. 31-136:2 (Nov. 17, 2011), effective no later than (280) days after enactment into law, pursuant to P.L. 31-136:4.

§ 50206. Eligibility.

The Guam Product Seal may be used only on a product manufactured on Guam that results from a substantial transformation of the materials used in the creation of the product and for which a minimum of fifty percent (50%) of the value of the product has been added on Guam. To obtain a permit to use the seal, a manufacturer must apply to the Authority. A permit to use the Guam Product Seal shall be effective for one (1) year.

§ 50207. Violations.

(a) It shall be unlawful for any business to place a Guam Product Seal on a product if the business does not have a current permit allowing the product to have such a seal.

(b) It shall be unlawful for any business establishment to state or imply in an advertisement or display of any type, including packaging,

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that a manufactured product is made on Guam if the product does not have a Guam Product Seal on it.

(c) It *shall* be unlawful for persons or any retail store, wholesaler, manufacturer, importer, distributor or business establishment to sell a any article(s) offered as a perishable consumer commodity that has the word “Guam” or “*Chamorro*,” or a derivation of such words, on the packaging of the product, if such product was *not* manufactured in Guam, *unless* the place where the product was manufactured is clearly and permanently labeled on the product.

(d) Any use of the word “Guam” or “*Chamorro*,” or a derivation of such words, on the exterior packaging of perishable consumable commodities at the point of sale, if such product was *not* manufactured in Guam or if the product is *not* a registered commodity under the Guam Product Seal Permit, *shall* have the phrase, “Made in . . .,” or “Product of . . .,” followed by the country of origin, clearly labeled on the package or container of an article, e.g. “Made in U.S.A.”, “Made in China”, “Made in Philippines”, etc; or “Product of the U.S.A.”, “Product of China”, “Product of the Philippines”, etc.

(e) The “Made in . . .” or “Product of . . .” phrase *shall* be included on the packaging or container of an article in legible and permanent print located in the front of the article’s package. Such words and fonts *shall* be equal in length, and *no less than* half the width in approximate size of the word “Guam” or “*Chamorro*,” or any derivatives used, and *shall* be conspicuous and legible to the average consumer.

(f) The origin of the article *shall* also be included in the back or side of the packaging in conformance with standard labeling practices.

SOURCE: Subsection (c) amended by P.L. 31-136:3 (Nov. 17, 2011), effective no later than (280) days after enactment into law, pursuant to P.L. 31-136:4. Subsections (d), (e) and (f) added by P.L. 31-136:3 (Nov. 17, 2011), effective no later than (280) days after enactment into law, pursuant to P.L. 31-136:4.

§ 50208. Fines.

For each violation of Subsection (a) of § 50207 of this Chapter, the Authority shall levy a fine against the firm in an amount equal to or greater than Two Thousand Five Hundred Dollars (\$2,500.00), but not to exceed Five Thousand Dollars (\$5,000.00) per type of product. For each violation of § 50207(b) or (c) of this Chapter, the Authority shall levy a fine against the firm in an amount equal to or greater than Five Hundred

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Dollars (\$500.00), but not to exceed Two Thousand Dollars (\$2,000.00) per type of product. Separate fines shall be levied each separate time a business is found to have violated § 50207 of this Chapter. Such fines shall be payable to the Department of Revenue and Taxation and shall be credited to the Guam Product Seal Fund.

§ 50209. Recovery of Merchandise.

In the case of any violation of § 50207(a) of this Chapter, the Authority shall order the firm to recover from wholesalers and retailers and to take off the market all products sold with a Guam Product Seal for which the firm did not have a permit when the seal was placed upon the product.

§ 50210. Penalty.

(a) The Department of Revenue and Taxation shall revoke the business license of any firm if, after a hearing, it determines that the firm:

(1) failed to pay a fine levied pursuant to § 50208 of this Chapter within ninety (90) days after the fine was levied; or

(2) failed to recover merchandise in accordance with an order issued pursuant to § 50209 of this Chapter within ninety (90) days after the order was issued.

(b) The Department of Revenue and Taxation shall not renew the business license of any business if the business has not paid a fine levied pursuant to this Chapter.

§ 50211. Collection.

The Department of Revenue and Taxation is responsible for the collection of all fines levied by the Authority pursuant to § 50208 of this Chapter.

ARTICLE 3
GUAM ROAD CONSTRUCTION MITIGATION
GRANT AND LOAN GUARANTEE PROGRAM

SOURCE: Article 3 added by P.L. 31-013:2 (Mar. 30, 2011).

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2011 NOTE: Article 3 was formerly entitled “Public Market” which was repealed by P.L. 28-068:IV:54 (Sept. 30, 2005).

- § 50301. Establishment.
- § 50302. Definitions.
- § 50303. Administration.
- § 50304. Eligibility.
- § 50305. Applications.
- § 50306. Application for Program Grants.
- § 50307. Application for Program Loans.
- § 50308. Appeal.
- § 50309. Funding.
- § 50310. Fund Distribution.
- § 50311. Same.

§ 50301. Establishment.

The Guam Economic Development Authority (GEDA) *shall* develop, implement, and administer the Government of Guam Mitigation Program for Business Interruption to make grants, loans, or a combination of both to small and mid-size businesses to mitigate the impacts of government projects.

§ 50302. Definitions.

For purposes of this Section, *except* as otherwise specifically provided, the following words and phrases, together with all of the common derivatives thereof (i.e. verbs, plurals, feminine, gender, etc.) *shall* have the meaning ascribed to them in this Section.

(a) *applicant* means a small or midsize business;

(b) *Administrator* means the Administrator of the Guam Economic Development Authority;

(c) *eligible government project* means a project that will affect one or more small or mid-size businesses as a result of construction work because the construction is anticipated to impair access for a minimum period of one month;

(d) *project* means any improvement or alteration to real property, including demolition work to clear a site;

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(e) *government* means the government of Guam or its instrumentality;

(f) *small business* means a business that generates gross profit less than or equal to Two Hundred Thousand Dollars (\$200,000) on an annual basis, and is located in an area that is adjacent to an eligible government project;

(g) *mid-size business* means a business that generates gross profit less than or equal to One Million Dollars (\$1,000,000) and gross sales less than or equal to Two Million Dollars (\$2,000,000) on an annual basis, and is located in an area that is adjacent to an eligible government project; and

(h) *Program* means the Government of Guam Mitigation Program for Business Interruption.

§ 50303. Administration.

The following provisions *shall* govern the administration of this entire Chapter.

(a) Administrator. The Administrator of the Guam Economic Development Authority of the Government of Guam (herein known as the Administrator) *shall* have the following duties, powers, and authority:

(1) Establish procedures for receiving, responding to, and approval of applications to the Program, which *shall* be submitted to the Speaker of *I Liheslaturan Guåhan* within thirty (30) days of enactment. The Administrator *shall* notify each applicant, in writing, of the outcome of the application *no later than* fifteen (15) days after a completed application package is received. *If* an applicant to the Program is denied, the Administrator *shall* provide *no later than* three (3) days after the decision, a written explanation on the basis of the denial. An applicant denied by the Administrator may appeal the decision pursuant to § 50308 of this Article.

(2) Establish procedures for the periodic assessment of the Program which *shall* be transmitted to the Speaker of *I Liheslaturan Guåhan* sixty (60) days after the close of the fiscal year. The assessment, at a minimum, *shall* include the number of applicants to the Program, the names of Program

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recipients, funds distributed for the year, the current balance of the Program, and Program analysis on its legislative intent.

(3) Publish on the Guam Economic Development Authority website, sixty (60) days after the close of the fiscal year, the number of applicants to the Program, the names of Program recipients, the number of Program recipients, funds distributed for the year, the current balance of the Program and Program analysis on its legislative intent.

(3) Establish criteria for the review and approval of Program applications consistent with this Article and its intent.

(4) Promote and publish on the Guam Economic Development Authority website information regarding the Program, its requirements, and benefits to small and mid-size business owners.

§ 50304. Eligibility.

To be eligible for Program benefits an applicant must meet the eligibility criteria as stipulated below. Program applicants *shall*:

(a) be bona fide residents of Guam and a United States citizen, or a permanent resident alien;

(b) *not* have any outstanding taxes due to the Department of Revenue and Taxation and/or any outstanding debts at the Guam Memorial Hospital Authority which are *not* subject to an approved and current payment plan prior to the commencement of the eligible project as defined in § 50302 (c);

(c) possess a valid business license;

(d) be current with all reporting of taxes to the Department of Revenue and Taxation; and

(e) *not* be required to submit two (2) bank denials to qualify for programs stipulated in §§ 50306 and 50307.

§ 50305. Applications.

An applicant *shall* prepare and submit to the Administrator a written proposal detailing strategies on how the applicant will implement the funds received to ensure the viability of the business. Specific requirements for §§ 50304 and 50305 are enumerated in §§ 50306 and

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50307 of this Article. Applicants receiving funds through §§ 50306 and 50307 of this Article *shall* be required to seek technical assistance through the University of Guam Small Business Development Center (SBDC), *or* other similar organizations approved by the Guam Economic Development Authority.

§ 50306. Application for Program Grants.

Applicants who are owners of small businesses *shall* be eligible for a Twelve Thousand Dollar (\$12,000) grant from the Guam Economic Development Authority. The grant *shall* have the following limitations:

(a) the grant *shall* be used to subsidize general operating expenses and provide working capital to small businesses, including, but *not* limited to, the payment of rent, employee salaries and benefits, supplies, and utilities;

(b) the grant is non-renewable; and

(c) the grant will be distributed in three (3) equal payments on the 10th of each month over three (3) months.

Upon expiration of the grant, the grant recipients have the option of applying for a loan pursuant to § 50307. *No* additional documents need to be submitted by grant recipients to receive the Program loans.

§ 50307. Application for Program Loans.

Applicants who are owners of mid-size businesses *shall* be eligible for a loan of up to One Hundred Thousand Dollars (\$100,000) from the Guam Economic Development Authority. The loan *shall* have the following limitations:

(a) the loan *shall* be used to subsidize general operating expenses, including, but *not* limited to, the payment of rent, employee salaries and benefits, supplies, utilities and other necessary expenses for implementation of business recovery plan, such as relocation expenses and diversification of products and services;

(b) the loan *shall* be payable in a period *not to exceed* ten (10) years;

(c) the interest rate on the loan *shall* be based on the U.S. Treasury Index Rate plus *up to* four percent (4%);

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(d) interest only payments *shall* be allowed for the duration of the construction period and six (6) months after the completion of the project; and

(e) the loan is non-renewable.

§ 50308. Appeal.

An applicant may appeal a denial within thirty (30) days of receipt of the written denial notice. The applicant *shall* submit to the Guam Economic Development Authority Board appropriate documentation disputing the basis of the denial. The Board *shall* render a decision within five (5) days after receipt of an appeal. The decision of the Board *shall* be final.

§ 50309. Funding.

The funding sources of the Program *shall* come from the following sources:

(a) The Guam Economic Development Authority may obtain business interruption insurance policy coverage of up to Two Million Dollars (\$2,000,000) for the purpose of distributing grant benefits pursuant to § 50306. Payment of the annual insurance premiums for the policy coverage *shall* be taken from the bond origination fees generated by GEDA;

(b) The Guam Economic Development Authority *shall* make available from the Guam Economic Development Fund Act (GEDFA) *no less than* Five Hundred Thousand Dollars (\$500,000) and *up to* One Million Dollars (\$1,000,000), which *shall* provide the funding source for the loans granted pursuant to § 50307; and

(c) The sum of Four Hundred Thousand Dollars (\$400,000) is appropriated from the operating fund balance of the Guam Economic Development Authority for the grant program pursuant to 12 G.C.A. § 50306.

(d) DPW *shall* provide as part of its planning and procurement of road construction, funding for economic mitigation and business interruption.

§ 50310. Fund Distribution.

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In distributing funds, the Administrator *shall* consider the types of businesses affected by the eligible government project and *shall* balance funding between the number of eligible applicants and the funds available in this Article.

§ 50311. Same.

The Board *shall* have the authority to accept applications and award grants and loans for businesses affected by ongoing projects prior to the submission and adoption of the requirements of 12 GCA § 50303 (a) (1) and (4).

ARTICLE 4
GUAM FILM OFFICE

SOURCE: Article 4 added by P.L. 31-159:1 (Jan. 4, 2012), effective, (180) days after date of enactment pursuant to § 50412 of this article.

- § 50401. Definitions.
- § 50402. Guam Film Office.
- § 50403. Rules and Regulations.
- § 50404. Powers and Duties.
- § 50405. Guam Film Office Fund.
- § 50406. Permits Required.
- § 50407. General Exemptions.
- § 50408. Local Production Companies Exempt.
- § 50409. Applicants and Issuance.
- § 50410. Indemnification of Government Against Liability.
- § 50411. Insurance and Bonding Required.
- § 50412. Effective Date.
- § 50413. Severability.

§ 50401. Definitions.

(a) Administrator means the administrator of the Guam Film Office, who *shall* be the Administrator of the Guam Economic Development Authority or his/her designee.

(b) Charitable or student films *shall* mean commercials, motion pictures, television, videotapes, or still photography produced by a

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nonprofit organization that is registered with the Department of Revenue and Taxation or the Internal Revenue Service as a charitable organization or is produced by students of an educational institution, and for which no person, directly or indirectly, shall receive a profit from the marketing and production of the film or from showing the films, tapes, or photos.

(c) Commercial films *shall* mean and include all activity attendant to filming any entertainment or advertising programs for any media now known or hereafter created.

(d) Filming/Production *shall* mean and include all activity attendant to staging or shooting commercial motion pictures, television shows or programs, and commercial still photography, video tapes, computer-based programs, or other visual reproduction technology now known or hereafter created. The period of filming includes the set-up, strike and time of photography.

(e) Government *shall* mean the government of Guam, its authorized agents, officers, representatives and employees of departments, agencies, autonomous agencies, offices or instrumentalities.

(f) News Media *shall* mean the photographing, filming or videotaping for the purpose of spontaneous, unplanned television news broadcast or reporting for print media by journalists, reporters, photographers or camera operators.

(g) Private Property *shall* mean any property *not* owned by the government of Guam on which filming would *not* interfere with public right of way, access or safety.

(h) Studio *shall* mean a fixed place of business where filming activities (motion or still photography) are regularly conducted upon the premises.

§ 50402. Guam Film Office.

There is hereby established within the Guam Economic Development Authority a Guam Film Office. The Administrator of the Guam Economic Development Authority *shall* be responsible for the administration of the Guam Film Office.

§ 50403. Rules and Regulations.

(a) Rules and Regulations. The Administrator *shall* establish an advisory committee comprised of individuals and representatives of

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nongovernmental organizations that have substantial experience in the film, video and media fields in order to cause the promulgation of rules, regulations and fees to govern the form, time and location of filming activity set forth within Guam. The committee *shall* allow for the full participation of any member of the public during its deliberations. The rules and regulations *shall* also provide for the issuance of permits, notification of permit denial and a process of appeal. The rules, regulations, and fees *shall* be adopted in accordance with the Administrative Adjudication Act, Title 5 Guam Code Annotated, Chapter 9, within ninety (90) days upon the enactment of this Article. The rules and regulations *shall* be based upon the following criteria:

- (1) the health and safety of all persons;
- (2) avoidance of undue disruption of all persons within the affected area;
- (3) the safety of property in Guam; and
- (4) traffic congestion at particular locations in Guam

§50404. Powers and Duties.

The Guam Film Office *shall* have the following powers and duties:

(a) To promote, encourage and advertise the use of Guam facilities and services for the production of films, videos, television programs, audio recordings, computer-generated and other media-related products.

(b) To provide support services to visiting and local production companies, including assistance to film, video and media producers in securing necessary permits or permissions from government of Guam authorized agents, officers, representatives and employees of departments, agencies, autonomous agencies, offices or instrumentalities.

(c) To develop and update annually a resource guide of viable filming locations in Guam, available video and media production facilities, permitting requirements, and tax incentives.

(d) To work in coordination with the Guam Visitors Bureau to conduct and attend trade shows and production workshops to promote Guam to the national and international film industries.

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(e) To promote and attract business activities in film, video, computer-generated and other media production activity in Guam, and take any other administrative action which may improve Guam's film, video and media production industries in national and international markets.

(f) To accept any funds, gifts, donations, bequests or grants of funds from private, federal, and public sources for the purpose of this Act.

(g) To create a "one stop permitting" process by formulating and proposing rules and regulations for standardized permits which *shall* be used by the government of Guam, its authorized agents, officers, representatives and employees of departments, agencies, autonomous agencies, offices or instrumentalities, to include any requirements set forth in this Act.

§ 50405. Guam Film Office Fund.

There is established a fund to be known as the Guam Film Office Fund, which *shall* be administered by the Guam Economic Development Authority Guam Film Office, and be maintained separate and apart from any other funds of the government of Guam, including the General Fund of the government of Guam. Independent records and accounts *shall* be maintained in connection therewith. Funds of the Guam Film Office Fund *shall* be used exclusively for the administration and operations of the Guam Film Office. All funds collected from fees, charges or fines levied pursuant to this Chapter *shall* be deposited into the Guam Film Office Fund, and all interest earned by the Guam Film Office Fund *shall* accrue. Any unencumbered funds remaining in the Guam Film Office Fund at the end of each fiscal year *shall* remain in that Fund. The Guam Film Office Fund *shall* be subject to audits by the Office of Public Accountability.

§ 50406. Permits Required.

(a) Permit Required. No person shall use any government street, alley, sidewalk, park, pier, way or other public property owned or controlled by the government of Guam for the purpose of making commercial films without first applying for and receiving a permit from the Guam Film Office Administrator or his/her designee, provided, that the provisions of this Chapter *shall not* apply to or be construed to affect

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- (1) news media; and
- (2) filming solely for private-family use.

(b) No person shall use any private property for the purpose of making commercial films without first applying for and receiving a permit from the Guam Film Office Administrator or his/her designee. Notwithstanding the foregoing, the provisions of this Chapter *shall not* apply to or be construed to affect the following filming on private property:

- (1) filming which requires *no* parking variances and uses *no* public property or rights of way on public property;
- (2) filming which *does not* impair the quiet enjoyment of the surrounding properties;
- (3) filming which *does not* involve the use of any pyrotechnic devices;
- (4) a licensed business which regularly employs a licensed pyrotechnic operator;
- (5) filming by news media;
- (6) filming solely for private-family use; *or*
- (7) filming which *does not* interfere with the public's use of government property.

(c) *Except* as provided herein, each applicant must comply with all local and federal laws and regulations, and must obtain all necessary permits and licenses as a precondition for the commencement of commercial film production hereunder. Thereafter, the permittee *shall* remain in full compliance with all local and federal laws, regulations, permits and licenses throughout the filming.

(d) Upon reasonable notice by the applicant, the Administrator, or his/her designee, is authorized, upon showing of good cause, to change the conditions under which a permit has been issued, provided that the requirements of this Chapter are met and the government of Guam department, agency, autonomous agency, office or instrumentality can undertake all necessary administrative review within the time requested.

§ 50407. General Exemptions.

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The provisions of this Article *shall not* apply to or affect:

(a) News Media. Reporters, photographers or cameramen in the employ of a newspaper, news service, or similar entity, engaged in the on-the-spot broadcasting of news events concerning those persons, scenes or occurrences which are in the news and of general public interest, including sporting events.

(b) Private/Family Use. The filming or video taping of motion pictures solely for private/family use.

(c) Charitable Films and Student Films. Projects produced by a nonprofit organization that is registered with the Department of Revenue and Taxation or the Internal Revenue Service as a charitable organization or produced by a student(s) of an educational institution.

(d) Small Crews. If the crew *does not* exceed five (5) persons and there is *no* extensive use of props, equipment, cast or other participants, the small crew *shall* be exempt if the following conditions are met:

(1) The crew is filming a parade, demonstration or other special event, and has obtained all permission that may be required. The exemption *shall* allow them to operate on the same basis as a citizen with a camera; or

(2) Pedestrian and vehicular traffic is *not* altered; and

(3) No special parking provisions are included; and

(4) No stunt work is performed; and

(5) Permission is obtained from controlling authorities to use government of Guam property, other than sidewalks and streets; and

(6) Permission is obtained from owners to use private property where applicable.

§ 50408. Local Production Companies Exempt.

In addition to the General Exemptions authorized in § 50407 of this Act, the provisions of this Article and the rules, regulations, and requirements authorized herein *shall not* apply to or affect local production companies if:

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- (a) The production company was incorporated in Guam.
- (b) Principal owner(s) is a resident of Guam and has filed individual tax returns in Guam for a period of at least three (3) years.
- (c) The production company maintains its headquarters in Guam.
- (d) The production company is licensed to do business in Guam.
- (e) The daily operations of the production company are managed by a resident of Guam.

§ 50409. Applicants and Issuance.

(a) Issuing Authority. The issuing authority *shall* be the Guam Film Office Administrator.

(b) Applications. Each application for filming under this Chapter must be completed in full and filed with the Administrator, or his/her designee

(c) The permit application *shall* be in a form the Administrator, or his/her designee, may reasonably require. In lieu of the foregoing, the applicant may submit the permit application on the form adopted and in use by the Guam Film Office.

(d) The Administrator, or his/her designee, may refer the application to such appropriate government department, agency, autonomous agency, office or instrumentality as are directly impacted by the application, and as he/she deems necessary from the nature of the application for review, evaluation, investigation and recommendations by the department, agency, autonomous agency, office or instrumentality regarding approval or disapproval of the application.

(e) The Administrator, or his/her designee, *shall* issue a permit under this Chapter if it is determined that the following criteria have been met:

- (1) the proposed use will *not* unreasonably interfere with or endanger the public peace or rights of nearby residents to the quiet, peaceable enjoyment of their property, or otherwise be detrimental to the public peace, health, safety or general welfare;

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(2) the proposed use will *not* unduly impede, obstruct or interfere with the operation of emergency vehicles or equipment in or through the permit area, or adversely affect the government's ability to perform municipal functions or furnish government services in the vicinity of the permitted area; and

(3) the proposed use will *not* constitute a fire or safety hazard and all proper safety precautions will be taken as is reasonably necessary to protect the public peace, health, safety or general welfare.

(f) The Administrator, or his/her designee, *shall* deny the permit if the conditions of this Chapter and all applicable laws and regulations have *not* been met or if the application contains incomplete or false information. No permit shall be denied without a clear written explanation of the reasons compelling a denial and the process by which said denial may be appealed.

(g) The Administrator, or his/her designee, may immediately revoke or suspend a permit which has been granted, if the conditions of this Chapter and all applicable laws and regulations are no longer being met, if the information supplied by the applicant becomes, or is determined to be, false or incomplete, or if any substantial change in circumstances results in the proposed use becoming detrimental to the public peace, health, safety or general welfare.

(h) The Guam Economic Development Authority Compliance and Audit Department *shall* conduct production site inspections, monitoring, and enforcement of this Act.

(i) Reimbursement for Personnel. The production company *shall* reimburse the relevant government of Guam agency for any personnel provided to the company (i.e. police, fire, traffic control, medical personnel) for the purpose of assisting the production. Any cost *shall* be negotiated, and approved, prior to the shoot date. A fee for issuance of the permit *shall* be set by the advisory committee.

§ 50410. Indemnification of Government Against Liability.

(a) Prior and as a condition precedent to the granting of a permit under this Chapter, each applicant *shall* agree to indemnify, defend and hold the government of Guam, its authorized agents, officers, representatives and employees harmless from and against any and all

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losses, damages, claims, causes of action, costs, liabilities, penalties, judgments and expenses, including without limitation, defense costs and reasonable legal fees, resulting from any and all claims or damage of any nature, including any accident, loss or damage to persons or property which the government may incur and which arise from or relate to any activity conducted by the permittee or any of its agents, employees, representatives, contractors or consultants in connection with the rights granted in the permit or under this Chapter. The form of the indemnification agreement *shall* be as determined by the Attorney General of Guam.

§ 50411. Insurance and Bonding Required.

(a) **Liability Insurance.** As a condition of issuance of a permit hereunder, every permittee must procure and maintain in full force and effect during the term of the permit a policy (or policies) of insurance from an insurance company licensed to do business in Guam, naming the government of Guam, its officers, employees and agents as coinsured for protection against claims of third persons for any and all liability of permittee with respect to its obligations and liabilities under its permit and this Chapter and its indemnities, including, but *not* limited to, commercial general liability insurance on an “occurrence” basis against claims for personal injury, including death, bodily injury or property damage liability, and in an amount *no less than* One Million Dollars (\$1,000,000.00), and which otherwise provides sufficient coverage that the Administrator, or his/her designee, determines to be necessary and adequate under the circumstances. The certificate of insurance *shall not* be subject to cancellation or modification until after thirty (30) days’ written notice to the Guam Film Office. Prior to issuance of any permit, a copy of the certificate of insurance *shall* be provided to the Insurance Commissioner. A copy of the certificate will remain on permanent file.

(b) **Worker’s Compensation Insurance.** An applicant *shall* conform to all applicable federal and local requirements for worker’s compensation insurance for all persons operating under a permit.

(c) **Hold Harmless Agreement.** An applicant *shall* execute a hold harmless agreement as provided by the government of Guam and incorporated within the permit issued under this Chapter.

(d) **Faithful Performance Bond.** To ensure cleanup and restoration of any public property involved in the filming, the permittee may be

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required to post a refundable Faithful Performance Bond (amount to be determined by rules and regulations), cash surety or other comparable form of security guarantee at the time application is submitted. Upon completion of filming, cleanup and restoration, and a satisfactory inspection of the site by Guam Film Office Administrator, or his/her designee, the bond may be returned to applicant.

§ 50412. Effective Date.

This Article *shall* be effective one hundred eighty (180) days after the date of enactment.

§ 50413. Severability.

If any provision of this law or its application to any person or circumstances is found to be invalid or contrary to law, such invalidity *shall not* affect other provisions or applications of this law, which can be given effect without the invalid provisions or applications, and to this end the provisions of this law are severable.
