

19 GCA PERSONAL RELATIONS
CH. 3 CONTRACT OF MARRIAGE

CHAPTER 3
THE CONTRACT OF MARRIAGE

- Article 1. Validity of Marriage.
- Article 2. Authentication of Marriage.
- Article 3. Judicial Determination of Void Marriages.

2015 NOTE: Pursuant to P.L. 33-065:11 (Aug. 25, 2015):

Section 11. When necessary to implement the rights, benefits, protections, and responsibilities of spouses under the laws of Guam, all gender-specific terminology, such as “husband,” “wife,” “widow,” “widower,” or similar terms, *shall* be construed in a gender-neutral manner. This interpretation *shall* apply to all sources of law, including statutes, administrative rules, court decisions, common law, or any other source of law.

ARTICLE 1
VALIDITY OF MARRIAGE

- § 3101. What Constitutes Marriage.
- § 3102. Minors.
- § 3103. How Manifested and Proved.
- § 3104. Incompetency of Parties.
- § 3105. Illegal and Void Marriages.
- § 3106. Release, Generally.
- § 3107. Marriages Outside of Guam.
- § 3108. Choices of Name Upon Marriage.
- § 3109. Same: Exclusive Election.

§ 3101. What Constitutes Marriage.

Marriage is a personal relation arising out of a civil contract, to which the consent of parties capable of making that contract is necessary. Consent alone will not constitute marriage; it must be followed by a solemnization authorized by this Title.

SOURCE: CC § 55.

§ 3102. Minors.

Any unmarried person of the age of eighteen (18) years or older, and not otherwise disqualified, is capable of consenting to and consummating

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marriage; *provided*, that any person under the age of eighteen (18) years and over the age of sixteen (16) years, with the consent in writing of the parents of the person under age, or one of such parents, or of his or her guardian, where such written consent is filed with the Director of Administration, as provided in § 3202 of this Title, is capable of consenting to and consummating marriage.

SOURCE: CC § 56, amended by P.L. 11-144 (June 23, 1972). Amended by P.L. 33-065:4 (Aug. 25, 2015).

NOTE: *Island Court* changed to *Superior Court* pursuant to P.L. 12-085 (Jan. 16, 1974).

Subsection designation removed pursuant to authority granted by 1 GCA § 1606.

§ 3103. How Manifested and Proved.

Consent to marriage and solemnization thereof may be proved under the same general rules of evidence as facts are proved in other cases.

SOURCE: CC § 57.

§ 3104. Incompetency of Parties.

Marriages between parents and children, ancestors and descendants of every degree, and between brothers and sisters of the half as well as the whole blood, and between uncles and nieces or aunts and nephews, are incestuous, and void from the beginning whether the relationship is legitimate or illegitimate.

SOURCE: CC § 60.

§ 3105. Illegal and Void Marriages.

A subsequent marriage contracted by any person during the life of a former spouse of such person, with any person other than such former spouse is illegal and void from the beginning, unless:

(a) the former marriage has been annulled or dissolved. In no case can a marriage of either of the parties during the life of the other, be valid in Guam, if contracted within one (1) year after the entry of an interlocutory decree in a proceeding for divorce.

(b) Unless such former spouse is absent and not known to such person to be living for the space of five (5) successive years immediately preceding such subsequent marriage, or is generally reputed or believed by such person to be dead at the time such

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subsequent marriage was contracted. In either of which cases, the subsequent marriage is valid until its nullity is adjudged by a competent tribunal.

SOURCE: CC § 61. Amended by P.L. 33-065:5 (Aug. 25, 2015).

COURT DECISIONS: *Petition for Naturalization of Lujan*, 144 F. Supp. 150, (1956).

§ 3106. Release, Generally.

Neither party to a contract to marry is bound by a promise made in ignorance of the other's want of personal chastity, and either is released therefrom by unchaste conduct on the part of the other unless both parties participate therein.

SOURCE: CC § 62.

§ 3107. Marriages Outside of Guam.

All marriages contracted outside of the territory of Guam, which would be valid by the laws of the country in which the same were contracted, are valid in the territory of Guam.

SOURCE: CC: § 63.

§ 3108. Choices of Name Upon Marriage.

(a) Upon entering into a contract of marriage, a spouse may elect to retain his or her surname before marriage as his or her surname after marriage, or a spouse may elect to adopt any of the following surnames:

- (1) the current surname of the other spouse;
- (2) the surname of either spouse given at birth;
- (3) a combination of surnames; or
- (4) either spouse may elect to hyphenate his or her surname with the surname of the other spouse.

(b) Upon entering into a contract of marriage, a spouse may elect to retain his or her middle name before marriage as his or her middle name after marriage, or a spouse may elect to adopt any of the following middle names:

- (1) the current surname of either spouse;
- (2) the surname of either spouse given at birth;

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(3) a combination of the spouse's current middle name, and the current surname of the other spouse;

(4) a combination of the spouse's current middle name and surname;

(5) a combination of the spouse's current middle name and the spouse's surname given at birth; or

(6) a combination of the spouse's current middle name, and the other spouse's surname given at birth.

(c) An election by a person to change his or her name pursuant to this Section shall serve as a record of the name change. A certified copy of a marriage certificate indicating a person's new name, or retaining the former name, shall constitute proof that the use of the new name or retention of the former name is lawful.

SOURCE: CC § 64. R/R by P.L. 12-112 (Mar. 25, 1974). Amended by P.L. 29-037:1 (Oct. 25, 2007), and P.L. 33-065:6 (Aug. 25, 2015). Repealed and reenacted by P.L. 34-065:2 (Nov. 9, 2017), effective 180 days after enactment.

2017 NOTE: Before its repeal and reenactment by P.L. 34-065:2 (Nov. 9, 2017), this provision read as follows:

Upon entering into a contract of marriage a spouse may elect to retain his or her surname before marriage as his or her surname upon marriage. Upon entering into a contract of marriage, either spouse may elect to hyphenate his or her surname with the surname of the other spouse. Intention of the exercise of said election shall be indicated upon the marriage license application as provided for by § 3202 of this Title.

§ 3109. Same: Exclusive Election.

[Repealed.]

SOURCE: CC § 64.1, enacted by P.L. 12-112 (Mar. 25, 1974). Repealed by P.L. 33-065:7 (Aug. 25, 2015).

**ARTICLE 2
AUTHENTICATION OF MARRIAGE**

§ 3201. Marriages, Procedure.

§ 3202. Marriage Licenses.

§ 3203. Marriage Certificate.

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- § 3204. Who May Solemnize.
- § 3205. Obligatory Upon Judge, the Director of Revenue and Taxation or the Director of Administration.
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- § 3207. Requirements, Solemnizing.
- § 3208. Marriage Certificates.
- § 3209. Issuance of Certified Copies of Certificate and License to Parties.
- § 3210. Declaration Where no Record.
- § 3211. Acknowledged and Recorded.
- § 3212. Actions to Determine Validity.

§ 3201. Marriages, Procedure.

Marriage must be licensed, solemnized, authenticated, and recorded as provided in this Article; but noncompliance with its provisions by others than a party to a marriage does not invalidate it.

SOURCE: CC § 68.

§ 3202. Marriage Licenses.

(a) All persons about to be joined in marriage must first obtain a license therefore, from the Department of Public Health and Social Services, which license *shall* state:

- (1) the identity of the parties;
- (2) their full names, residence, and place of birth;
- (3) their date of birth;
- (4) their citizenship;
- (5) if an alien, whether a resident alien or a non-immigrant alien;
- (6) the number of previous marriages, wherever contracted and how terminated; the occupations of the parties; the surname of each, if previously married; the names and birthplaces of each; and, the maiden name of the mother of each;
- (7) whether a spouse elects to retain his or her surname upon marriage as provided for by § 3108;

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(8) whether either party elects to hyphenate or change his or her surname upon marriage as provided for by § 3108;

(9) whether either party elects to retain or change his or her middle name upon marriage as provided for by § 3108;

(10) the social security number of each party; and, if a party does not have a Social Security Number, he or she must state that fact; and

(11) whether the applicants elect to have their marriage solemnized by a village Mayor or Vice Mayor.

(b) No license shall be issued when either of the applicants therefore is an imbecile, insane as determined by the proper authority or who, at the time of making of the application of proof required for said license, is under the influence of intoxicating liquor or narcotic drug.

(1) If an applicant is under the age of eighteen (18) and has not been previously married, no license shall be issued unless the consent in writing of a parent or guardian of the person under age is presented with the application.

(A) A consent must be verified and such consent shall be retained with the application in the files of the Department of Public Health and Social Services.

(B) The fact of the consent shall be noted upon the license.

(C) In addition to the consent required, no license shall be issued for any person between the age of sixteen (16) and eighteen (18) unless the marriage of that person has been approved by an order in writing issued from the Superior Court.

(D) A license to marry shall not be issued to any person under the age of sixteen (16) unless the court authorizes a license to be issued to an applicant who is under sixteen (16) and with a child.

(2) No license shall be issued permitting marriage between first cousins, between an adoptive parent and an adoptive child, between a step-parent and a step-child or between a guardian and a ward unless a written order authorizing such a marriage has been issued by the Superior Court.

(c) Applications for a marriage license *shall* be made on a form prescribed by the Director of Public Health and Social Services and must be

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sworn to by both applicants before the Director of Public Health and Social Services or his delegate.

(1) No license *shall* be issued until after the expiration of five (5) days after filing of the application, unless the applicant *shall* pay a waiver fee of Fifty Dollars (\$50.00).

(2) Upon paying the waiver fee, the Director of Public Health and Social Services or his delegate may authorize the immediate issuance of a marriage license.

(d) For the purpose of ascertaining all facts mentioned or required in this Section, the Director of Public Health and Social Services, or his designee, may examine under oath, or require written affidavits from, the applicants for a license and as many supporting witnesses as he deems necessary.

(1) Such examination shall be reduced to writing and subscribed by all parties swearing to the facts therein.

(A) In the case of termination of a previous marriage by divorce or annulment, the applicant shall furnish a certified copy of the final decree of divorce or annulment.

(B) In the case of termination of a previous marriage by death of the spouse, the applicant shall furnish a certified copy of the record of death.

(2) If a certified copy of a final decree or divorce, annulment or record of death as required herein is not available, the applicant may submit in lieu thereof an affidavit setting forth, in such form as the Director may require, the reason why it is not obtainable.

(e) Any application for a marriage license and any related document on file with the Director of Public and Health and Social Services shall be open to public inspection.

(f) Any person who shall swear falsely to an application for a marriage license, or who shall make or present any false affidavit, statement, or testimony in any proceeding under Subsection (d), shall be guilty of a misdemeanor.

(g) No marriage license shall be effective nor shall it authorize the performance of a marriage ceremony after the expiration of sixty (60) days

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from the date of issuance of such license. This provision shall be printed on each license in prominent type.

(h) The Director of Public Health and Social Services and his designees are authorized to administer oaths in connection with the administration of this Section.

(i) A fee of Thirty Dollars (\$30.00) *shall* accompany each application for a marriage license and shall *not* be refunded *if* the license is *not* issued or used. *No* marriage license fees collected by the government of Guam prior to the enactment of this Section *shall* be refunded.

(j) All applicants electing to have their marriage solemnized by a village mayor or vice mayor *shall* pay to the Mayors Council of Guam Revolving Fund the sum of Fifty Dollars (\$50.00), which *shall* be paid *at least* three (3) days prior to the date of the marriage ceremony. The Mayors Council of Guam treasurer *shall* transfer the amount to the appropriate officiating municipality's non-appropriated funds (NAF) village account.

(k) The Mayors of Council of Guam *shall* submit a quarterly report in writing to the Speaker of *I Liheslatura*, to include, but not limited to, the name of the mayor or vice-mayor performing the civil wedding ceremony, the total number of civil weddings each mayor or vice-mayor performed each month, the names of the individuals for which the ceremony was performed, the date of the wedding, and the amount of money collected for all civil weddings performed. This information *shall* be posted monthly on the Mayors Council of Guam website.

SOURCE: CC § 69, amended by P.L. 11-144, R/R by P.L. 13-109:1. Subsection (b) amended by P.L. 14-136:1; (c) and (i) amended by P.L. 16-47:1 and P.L. 16-73:11; (f) amended by P.L. 13-187:2. Subsection (a)(8) added by P.L. 24-129:29; renumbered to (a)(9) by P.L. 29-037:3 (Oct. 25, 2007), which added a new (a)(8). Amended by P.L. 28-150:V:63 (Sept. 30, 2006). Subsection (c) amended by P.L. 29-002:V:I:66 (May 18, 2007). Subsection (i) amended by P.L. 29-002:V:I:67 (May 18, 2007). Subsection (a)(10) added by P.L. 29-113:VI:47 (Sept. 30, 2008). Subsection (j) added by P.L. 29-113:VI:48 (Sept. 30, 2008). Subsection (k) added by P.L. 29-113:VI:49 (Sept. 30, 2008). Subsections (j) and (k) amended by P.L. 31-064:1 (May 24, 2011). Subsection (a)(7) amended by P.L. 33-065:8 (Aug. 25, 2015). Subsection (a) amended by P.L. 34-065:3 (Nov. 9, 2017), effective 180 days after enactment.

2017 NOTE: Before its amendment by P.L. 34-065:2 (Nov. 9, 2017), subsection (a) read as follows:

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(a) All persons about to be joined in marriage must first obtain a license therefore, from the Department of Public Health & Social Services, which license shall state:

- (1) The identity of the parties;
- (2) Their full names, residence and place of birth;
- (3) Their date of birth;
- (4) Their citizenship;
- (5) If an alien, whether a resident alien or a non-immigrant alien;
- (6) The number of previous marriages, wherever contracted and how terminated; the occupations of the parties; the maiden name of the female, if previously married; the names and birthplaces of each; and the maiden name of the mother of each;
- (7) Whether a spouse elects to retain his or her surname before marriage as his or her surname upon marriage as provided for by § 3108.
- (8) Whether either party elects to hyphenate his or her surname with the surname of the other party as provided for by § 3108.
- (9) Social Security Number of Each Party. If a party does not have a social security number, he must state that fact.
- (10) Whether the applicants elect to have their marriage solemnized by a village mayor or vice mayor.

Subitem designation in subsections (b), (c) and (d) added pursuant to authority granted by 1 GCA § 1606.

§ 3203. Marriage Certificate.

The marriage license shall be presented to the person performing the ceremony and shall be filed by him with the Office of Vital Statistics, Department of Public Health and Social Services, within ten (10) days after the ceremony, together with certification that the marriage has been performed.

SOURCE: CC § 69.1.

§ 3204. Who May Solemnize.

- (a) Marriage may be solemnized by:
 - (1) *I Maga'lahaen Guåhan* (the Governor of Guam), or his substitute;

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(2) the judges of the U.S. District Court, and the Superior Court of Guam;

(3) all ordained clergymen and priests of whatsoever religious faith who are recognized as such by the religious body whose faith they represent;

(4) the Director of Revenue and Taxation, the Director of Administration, and the Director of Public Health and Social Services;

(5) the Speaker of *I Liheslaturan Guåhan* (the Guam Legislature), or his/her designee; and

(6) all village Mayors and Vice Mayors.

(b) No regularly licensed or ordained minister or any priest, or similar official of any religious organization, is required to perform the solemnization of any marriage.

SOURCE: CC § 70. Subsection (d) added by P.L. 15-113:23. Subsection (e) added by P.L. 18-14:5. Amended by P.L. 29-113:VI:46 (Sept. 30, 2008), and P.L. 33-065:9 (Aug. 25, 2015).

NOTE: *Island Court* changed to *Superior Court* and reference to *Police Court* deleted pursuant to P.L. 12-85.

§ 3205. Obligatory Upon Judge, the Director of Revenue and Taxation, the Director of Administration or Director of Public Health and Social Services.

The duty of solemnizing the marriage ceremony on any day *shall* be obligatory upon all the judges, the Director of Revenue and Taxation, the Director of Administration or the Director of Public Health and Social Services. The fee *shall* be Twenty-five Dollars (\$25.00).

SOURCE: CC § 70a amended by P.L. 15-113:24. Amended by P.L. 29-002:V:I:68 (May 18, 2007).

§ 3206. Particular Form Not Necessary.

No particular form for the ceremony of marriage is required, but the parties must declare in the presence of the person solemnizing the marriage that they take each other as husband and wife, or as spouses.

SOURCE: CC § 71. Amended by P.L. 33-065:10 (Aug. 25, 2015).

§ 3207. Requirements, Solemnizing.

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The person solemnizing a marriage must first require the presentation of the marriage license, and if he has any reason to doubt the correctness of its statement of facts he must first satisfy himself of its correctness, and for that purpose he may administer oaths and examine the parties and witnesses in like manner as the Director of Administration does before issuing the license.

SOURCE: CC § 72.

§ 3208. Marriage Certificates.

The person solemnizing a marriage must make, sign, and endorse upon or attach to the license a certificate showing:

- (a) The fact, time, and place of solemnization; and
- (b) The names and places of residence of one or more witnesses to the ceremony.
- (c) A statement of the official position of the person solemnizing the marriage, or of the denomination of which said person is a priest or minister.

SOURCE: CC § 73.

§ 3209. Issuance of Certified Copies of Certificate and License to Parties.

The Office of Vital Statistics, after the filing of the original license and certificate, *shall*, upon request of and for either party, and after payment of a fee of Ten Dollars (\$10.00) for each copy, make a certified copy of license and certificate of marriage.

SOURCE: CC § 74. Amended by P.L. 29-002:V:I:69 (May 18, 2007).

§ 3210. Declaration Where no Record.

If no record of the solemnization of a marriage heretofore contracted be known to exist, the parties may join in a written declaration of such marriage substantially showing:

- (a) The names, ages, and residences of the parties.
- (b) The fact of marriage.

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(c) That no record of such marriage is known to exist. Such declaration must be subscribed by the parties and attested by at least three (3) witnesses.

SOURCE: CC § 76.

§ 3211. Acknowledged and Recorded.

Declarations of marriage must be acknowledged in like manner as grants of real property and recorded in the Office of Vital Statistics.

SOURCE: CC § 77.

§ 3212. Actions to Determine Validity.

If either party to any marriage denies the same, or refuses to join in a declaration thereof, the other may proceed, by action in the Superior Court, to have the validity of the marriage determined and declared.

SOURCE: CC § 78.

NOTE: *Island Court* changed to *Superior Court* pursuant to P.L. 12-85.

**ARTICLE 3
HUSBAND AND WIFE**

§ 3301. Void marriages.

§ 3301. Void Marriages.

Either party to an incestuous or void marriage may proceed, by action in the Superior Court, to have the same so declared.

SOURCE: CC § 80.

NOTE: *Island Court* changed to *Superior Court* pursuant to P.L. 12-85.

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