

**19 GCA PERSONAL RELATIONS
CH. 12 UNIFORM GIFTS TO MINORS ACT**

**CHAPTER 12
UNIFORM GIFTS TO MINORS ACT**

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SOURCE: This Chapter was added by P.L. 11-115 as Article IV of Chapter III, Title IV, Part IV, Division Second of the Civil Code of Guam beginning with §1154.

§ 12101. Definitions.

In this Chapter, unless the contest otherwise requires:

(a) An *adult* is a person who has attained the age of 18 years.

(b) A *bank* is a bank, trust company, national banking association, savings bank. or industrial bank duly admitted and licensed in Guam to accept the deposits of others.

(c) A *broker* is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also includes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business.

(d) *Court* means the Superior Court.

(e) The *custodial property* includes:

(1) All securities, life insurance policies, annuity contracts and money under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this Chapter;

(2) The income from the custodial property; and

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(3) The proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment, surrender or other disposition of such securities, money, life insurance policies, annuity contracts and income.

(f) A *custodian* is a person so designated in a manner prescribed in this Chapter; the term includes a successor custodian.

(g) A *financial institution* is a bank, a federal savings and loan association, a savings institution chartered and supervised as a savings and loan or similar institution under federal law or the laws of a state or territory or a federal credit union or a credit union chartered and supervised under the laws of a state or territory; a *domestic financial institution* is one chartered and supervised under the laws of Guam or chartered and supervised under federal law and having its principal office in Guam; and an *insured financial institution* is one, deposits (including a savings, share, certificate, or deposit account) in which are, in whole or in part, insured by the Federal Deposit Insurance Corporation or by the Federal savings and Loan Insurance Corporation or by a deposit insurance fund approved by the laws of Guam.

(h) A *guardian* of a minor means the general guardian, guardian, tutor, or curator of his property or estate appointed or qualified by a court of Guam or a state or territory.

(i) An *issuer* is a person who places or authorizes the placing of his name on a security other than as a transfer agent to evidence that it represents a share. participation or other interest in his property or in an enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person.

(j) A *legal representative* of a person is his executor or the administrator, general guardian, guardian, committee, conservator, tutor or curator of his property or estate.

(k) A *life insurance policy or annuity contract* means a life insurance policy or annuity contract issued by an insurance company authorized to do business in Guam on the life of a minor to whom a gift of the policy or contract is made in the manner prescribed in this Chapter or on the life of a member of the minor's family.

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(l) A *member of a minor's family* means any of the minor's parents, grandparents, brothers, sisters, uncles and aunts, whether of the whole blood or the half blood, or by or through legal adoption.

(m) A *minor* is a person who has not attained the age of 18 years.

(n) A *security* includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferrable share, voting trust certificate or, in general, any interest or instruments commonly known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in *registered form* when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.

(o) A *transfer agent* is a person who acts as authenticating trustee, transfer agent, registrar, or other agent for an issuer in the registration for transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities.

(p) A *trust company* is a bank or corporation or other legal entity authorized to exercise trust powers in Guam.

SOURCE: CC §1154 added by P.L. 11-115.

NOTE: 1. The age of minority was lowered to 18 years by P.L. 14-92:5 (§1101 of this Title).

2. Congress has restructured and renamed the agency handling insuring for federally-insured savings and loan institutions.

3. All references to *Island Court* in this and other parts of this Chapter have been changed to *Superior Court* pursuant to P.L. 12-85, the Court Reorganization Act of 1974.

§ 12102. Manner of Making Gift.

(a) An adult person may, during his lifetime, make a gift of a security, a life insurance policy or annuity contract or money to a person who is a minor on the date of the gift:

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(1) If the subject of the gift is a security in registered form, by registering it in the name of the donor, an adult member of the minor's family, a guardian of the minor or a trust company, followed, in substance, by the words: as custodian for ____ [name of minor] ____ under the Guam Uniform Gift to Minors Act;

(2) If the subject of the gift is a security not in registered form, by delivering it to an adult member, other than the donor, of the minor's family, a guardian of the minor or a trust company, accompanied by statement in the following form, in substance, signed by the donor and the person designated as custodian:

**GIFT UNDER THE GUAM UNIFORM
GIFTS TO MINORS ACT**

I, ____ [name of donor] ____, hereby deliver to ____ [name of custodian] ____ as custodian for ____ [name of minor] ____ under the Guam Uniform Gift to Minors Act, the following security[ies]:

[Signature of Donor]

____ [name of custodian] ____ hereby acknowledges receipt of the above described security[ies] as custodian for the above minor under the Guam Uniform Gift to Minors Act.

Dated: _____

(Signature of custodian)

(3) If the subject of the gift is money, by paying or delivering it to a broker or a financial institution for credit to an account in the name of the donor, an adult member of the minor's family, a guardian of the minor, or a trust company, followed, in substance, by the words as custodian for ____ [name of minor] ____ under the Guam Uniform Gifts to Minors Act.

(4) If the subject of the gift is a life insurance policy or annuity contract, by causing the ownership of the policy or contract to be registered with the issuing insurance company in the name of the donor, an adult member of the minor's family, a guardian of the minor or a trust company, followed, in substance, by the words: as custodian

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for ____ [name of minor] ____ under the Guam Uniform Gifts to Minors Act.

(b) Any gift made in a manner prescribed in subsection (a) may be made to only one minor and only one person may be the custodian.

(c) A donor who makes a gift to a minor in a manner prescribed in subsection (a) shall promptly do all things within his power to put the subject of the gift in the possession and control of the custodian, but neither the donor's failure to comply with this subsection, nor his designation of an ineligible person as custodian, nor renunciation by the person designated as custodian affects the consummation of the gift.

SOURCE: CC § 1155 added by P.L. 11-115.

§ 12103. Effect of Gift.

(a) A gift made in a manner prescribed in this Chapter is irrevocable and conveys to the minor indefeasibly vested legal title to the security, life insurance policy, annuity contract or money given, but no guardian of the minor has any right, power, duty or authority with respect to the custodial property except as provided in this Chapter.

(b) By making a gift in a manner prescribed in this Chapter, the donor incorporates in his gift all the provisions of this Chapter and grants to the custodian, and to any issuer, transfer agent, bank, financial institution, life insurance company, broker or third person dealing with a person designated as custodian, the respective powers, rights and immunities provided in this Chapter.

SOURCE: CC §1156 added by P.L. 11-115.

§ 12104. Duties and Powers of Custodian.

(a) The custodian shall collect, hold, manage, invest and reinvest the custodian property.

(b) The custodian shall pay over to the minor for expenditure by him, or expend for the minor's benefit, so much of or all the custodial property as the custodian deems advisable for the support, maintenance, education and benefit of the minor in the manner, at the time or times, and to the extent that the custodian in his discretion deems suitable and proper, with or without court order, with or without regard to the duty of himself or of any other person to support the minor or his ability to do so, and with or without regard to any other income or property of the minor which may be applicable or available for any such purpose.

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(c) The court, on the petition of a parent or guardian of the minor or of the minor if he has attained the age of fourteen years may order the custodian to pay over to the minor for expenditure by him or to expend so much of or all the custodial property as is necessary for the minor's support, maintenance or education.

(d) To the extent that the custodial property is not so expended, the custodian shall deliver or pay it over to the minor on his attaining the age of eighteen years or, if the minor dies before attaining the age of eighteen years, he shall thereupon deliver or pay it over to the estate of the minor.

(e) The custodian, notwithstanding statutes restricting investments by fiduciaries, shall invest and reinvest the custodial property as would a prudent man of discretion and intelligence who is seeking a reasonable income and the preservation of his capital, except that he may, in his discretion and without liability to the minor or his estate, retain a security given to the minor in a manner prescribed in this Chapter or hold money so given in an account in the financial institution to which it was paid or delivered by the donor.

(f) The custodian may sell, exchange, convert, surrender or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices and upon the terms he deems advisable. He may vote in person or by general or limited proxy a security which is custodial property. He may consent, directly or through a committee or other agents, to the reorganization, consolidation, merger, dissolution or liquidation of an issuer, a security which is custodial property, and to the sale, lease, pledge or mortgage of any property by or to such an issuer, and to any other action by such an issuer. He may execute and deliver any and all instruments in writing which he deems advisable to carry out any of his powers as custodian.

(g) The custodian shall register each security which is custodial property and in registered form in the name of the custodian followed, in substance, by the words: as custodian for ____ [name of minor] ____ under the Guam Uniform Gifts to Minors Act. The custodian shall hold all money which is custodial property in an account with a broker or in an insured domestic financial institution in the name of the custodian followed, in substance, by the words: as custodian for ____ [name of minor] ____ under the Guam Uniform Gifts to Minors Act. The custodian shall keep all other custodial property separate and distinct from his own property in a manner to identify it clearly as custodial property.

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(h) The custodian shall keep records of all transactions with respect to the custodial property and make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor, if he has attained the age of fourteen years.

(i) A custodian has and holds as powers in trust with respect to the custodial property, in addition to the rights and powers provided in this Chapter, all the rights and powers which a guardian has with respect to property not held as custodial property.

(j) If the subject of the gift is a life insurance policy or annuity contract, the custodian:

(1) In his capacity as custodian, has all incidents of ownership in the policy or contract to the same extent as if he were the owner, except that the designated beneficiary of any policy or contract on the life of the minor shall be the minor's estate and the designated beneficiary of any policy or contract on the life of a person other than the minor shall be the custodian as custodian for the minor for whom he is acting; and

(2) May pay premiums on the policy or contract out of the custodial property.

SOURCE: CC §1156.1 added by P.L. 11-115.

§ 12105. Custodian's Expenses, Compensation, Bond and Liabilities.

(a) A custodian is entitled to reimbursement from the custodial property for his reasonable expenses incurred in the performance of his duties.

(b) A custodian may act without compensation for his services.

(c) Unless he is a donor, a custodian may receive from the custodial property reasonable compensation for his services determined by one of the following standards in the order stated:

- (1) A direction by the donor when the gift is made;
- (2) A statute of Guam applicable to custodians;
- (3) The statute of Guam applicable to guardians;
- (4) An order of the court.

(d) Except as otherwise provided in this Chapter, a custodian shall not be required to give a bond for the performance of his duties.

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(e) A custodian not compensated for his services is not liable for losses to the custodial property unless they result from his bad faith, intentional wrongdoing or gross negligence or from his failure to maintain the standard of prudence in investing the custodial property provided in the Article.

SOURCE: CC §1156.2 added by P.L. 11-115.

§ 12106. Exception of Third Persons from Liability.

No issuer, transfer agent, bank, life insurance company, broker or other person or financial institution acting on the instructions of or otherwise dealing with any person purporting to act as a donor or in the capacity of a custodian is responsible for determining whether the person designated as custodian by the purported donor or by the custodian or purporting to act as a custodian has been duly designated or whether any purchase, sale or transfer to or by or any other act of any person purporting to act in the capacity of custodian is in accordance with or authorized by this Chapter or is obliged to inquire into the validity or propriety under this Chapter of any instrument or instructions executed or given by a person purporting to act as a donor or in the capacity of a custodian, or is bound to see to the application by any person purporting to act in the capacity of a custodian of any money or other property paid or delivered to him. No issuer, transfer agent, bank, life insurance company, broker or other person or financial institution acting on any instrument of designation of a successor custodian, executed as provided in § 12107(a) by a minor to whom a gift has been made in a manner prescribed in this Chapter and who has attained the age of fourteen years, is responsible for determining whether the person designated by the minor as successor custodian has been duly designated, or is obliged to inquire into the validity or propriety under this Chapter of the instrument of designation.

SOURCE: CC §1156.3 added by P.L. 11-115.

§ 12107. Resignation, Death or Removal of Custodian; Bond; Designation of Successor Custodian.

(a) Only an adult member of the minor's family, a guardian of the minor or a trust company is eligible to become [a] successor custodian. A custodian may designate his successor by executing and dating an instrument of designation before a subscribing witness other than the successor; the instrument of designation may but need not contain the resignation of the custodian. If the custodian does not so designate his successor before he dies or becomes legally incapacitated, and the minor

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has attained the age of fourteen years, the minor may designate a successor custodian by executing an instrument of designation before a subscribing witness other than the successor. A successor custodian has all the rights, powers, duties and immunities of a custodian designated in a manner prescribed by this Chapter.

(b) The designation of a successor custodian as provided in Subsection (a) takes effect as to each item of the custodial property when the custodian resigns, dies or becomes legally incapacitated and the custodian or his legal representative:

(1) Causes the item, if it is a security in registered form or a life insurance policy or annuity contract, to be registered, with the issuing insurance company in the case of a life insurance policy or annuity contract, in the name of the successor custodian followed, in substance, by the words: as custodian for ____ [name of minor] ____ under the Guam Uniform Gifts to Minors Act; and

(2) Delivers or causes to be delivered to the successor custodian any other item of the custodial property, together with the instrument of designation of the successor custodian or a true copy thereof and any additional instruments required for the transfer thereof to the successor custodian.

(c) A custodian who executes an instrument of designation of his successor containing the custodian's resignation as provided in Subsection (a) shall promptly do all things within his power to put each item of the custodian property in the possession and control of the successor custodian named in the instrument. The legal representative of a custodian who dies or becomes legally incapacitated shall promptly do all things within his power to put each item of the custodial property in the possession and control of the successor custodian named in an instrument of designation executed as provided in subsection (a) by the custodian or, if none, by the minor if he has no guardian and has attained the age of fourteen years or in the possession and control of the guardian of the minor if he has a guardian. If the custodian has executed as provided in subsection (a) more than one instrument of designation, his legal representative shall treat the instrument dated on an earlier date as having been revoked by the instrument dated on a later date.

d) If a person designated as custodian or as successor custodian by the custodian as provided in subsection (a) is not eligible, dies or becomes

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legally incapacitated before the minor attains the age of eighteen years and if the minor has a guardian, the guardian of the minor shall be successor custodian. If the minor has no guardian and if no successor custodian who is eligible and has not died or become legally incapacitated has been designated as provided in subsection (a), a donor, his legal representative, the legal representative of the custodian or an adult member of the minor's family may petition the court for the designation of a successor custodian.

(e) A donor, the legal representative of a donor, a successor custodian, an adult member of the minor's family, a guardian of the minor or the minor, if he has attained the age of fourteen years, may petition the court that, for cause shown in the petition, the custodian be designated or, in the alternative, that the custodian be required to give bond for the performance of his duties.

(f) Upon the filing of a petition as provided in this section, the court shall grant an order, directed to the persons and returnable on such notice as the court may require, to show cause why the relief prayed for in the petition should not be granted and, in due course, grant such relief as the court finds to be in the best interests of the minor.

SOURCE: CC §1156.4 added by P.L. 11-115.

§ 12108. Accounting by Custodian.

(a) The minor, if he has attained the age of fourteen years, or the legal representative of the minor, an adult member of the minor's family, or a donor or his legal representative may petition the court for an accounting by the custodian or his legal representative.

(b) The court, in a proceeding under this Chapter or otherwise, may require or permit the custodian or his legal representative to account and, if the custodian is removed, shall so require and order delivery of all custodial property to the successor custodian and the execution of all instruments required for the transfer thereof.

SOURCE: CC §1156.5 added by P.L. 11-115.

§ 12109. Construction.

(a) This Chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states and territories which enact it.

(b) This Chapter shall not be construed as providing an exclusive method for making gifts to minors.

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SOURCE: CC §1156.6 added by P.L. 11-115.

§ 12110. Short Title.

This Chapter may be cited as the *Guam Uniform Gifts to Minors Act*.

SOURCE: CC §1156.7 added by P.L. 11-115.

§ 12111. Severability.

If any provision of this Chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or application of this Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.

SOURCE: CC §1156.8 added by P.L.11-115.
