

**21 GCA REAL PROPERTY
CH. 102 ADMINISTRATION**

**CHAPTER 102
ADMINISTRATION**

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§ 102101. Commissioner Designated.

The Director of Revenue & Taxation is the Real Estate Commissioner.

SOURCE: GC §58051.

§ 102102. Commission Recognized; Number and Appointment of Members.

There is a Real Estate Commission which consists of seven (7) members. All members of the Commission shall be appointed by the Governor by and with the consent of the Legislature. The terms of the first three (3) members appointed after the effective date of this Act shall expire January 15, 1980. The terms of other appointees shall be such terms as established by § 102103 of this Chapter. The members shall elect from among their number a Chairman and a Vice-Chairman.

SOURCE: GC §58051; repealed/reenacted (R/R) by P.L. 13-162:2.

§ 102103. Terms of Commissioners; vacancies.

Members of the Commission shall be appointed for a term of four years and they shall hold office until the appointment and qualification of their successors,

The terms of the members first appointed hereunder (excluding the Commissioner) shall expire as follows: one member, January 15, 1972; one member, January 15, 1973; and two member s, January 15, 1974.

Vacancies from any cause shall be filled by the Governor for the unexpired term.

SOURCE: GC §58052.

§ 102104. Qualifications of Appointees.

Four (4) members of the Commission shall be real estate brokers actively engaged in business as such in Guam for five (5) years. One (1) member of the Commission shall be an attorney licensed to practice in Guam. One (1) member of the Commission shall be chosen from the general public. One (1) member of the Commission shall be designated by the Real Estate Commissioner from among the classified employees of the Real Estate Licensing Division of the Department of Revenue and Taxation and shall be the Executive Secretary of the Commission.

SOURCE: GC §58053; R/R by P.L. 13-162:3.

§ 102105. Residence Requirements for Commissioners.

All members of the Commission shall be residents of Guam as defined in Title 3 of the Guam Code Annotated (Election Law).

SOURCE: GC §58054.

§ 102106. Compensation & Expenses.

Each member of the Commission, except for the Commissioner, shall receive compensation at the rate of Fifth Dollars (\$50) per day for each day on which the Commission meets, such compensation not to exceed One Hundred Dollars (\$100) per month.

SOURCE: GC §58055; R/R by P.L. 13-162:4; amended by P.L. 15-148:25.

§ 102107. Meetings of the Commission: Place: Notice.

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The Commission shall meet together for the transaction of business at least once each quarter-year, but the Chairman may call a meeting of the Commission at his discretion or upon written request of two or more members of the Commission. Each meeting of the Commission shall be held only after notice of the time, date and place of such meeting has been given to each Commission member.

SOURCE: GC §58056; R./R by P.L. 13-162:7.

§ 102108. Chairman of the Commission. [Repealed]

SOURCE: GC §58057; repealed by P.L. 13-162:1.

§ 102109. Quorum; effect of vacancy; act of majority.

A majority of the Commission constitutes a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power or authority of the Commission.

A vacancy on the Commission does not impair the right of the remaining members to perform all the duties and exercise all the power and authority of the Commission.

The act of the majority of the Commission, when in session as a commission, is the act of the Commission.

SOURCE: GC §58058.

§ 102110. Commission Meetings to be Open and Public: Exception.

All meetings of the Commission shall be open to the public, except that the Commission may hold executive sessions to prepare, approve, grade or administer examinations. The Commissioner shall assign a secretary who shall keep record of all the proceedings, transactions, communications and official acts of the Commission; be custodian of all the records of the Commission; and perform such other duties as the Commission may require.

SOURCE: GC §58059; amended by P.L. 13-162:8.

§ 102111. Functions of Commission.

(a) The Commission may adopt rules and regulations relating to the administration of but not inconsistent with the provisions of this Division.

(b) The Commission shall adopt a seal, which may be either an engraved or ink stamp seal, with the words 'Guam Real Estate Commission, Territory of Guam', and such device as the Commission may desire included thereon, by which the acts of the Commission shall be

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authenticated. Copies of all records and papers in the office of the Commission, certified by the signature of the Chairman and the seal of the Commission, shall be received in evidence in all cases equally and with like effect as the originals.

(c) The Attorney General shall render to the Guam Real Estate Commission, opinions on all questions of law relating to the interpretation of this Act or arising in the administration thereof, and shall act as attorney for the Commission in all actions and proceedings brought by or against it under or pursuant to any of the provisions of this Act.

(d) The Commission may make such recommendation and suggestions of policy to the Commissioner as the Commission deems beneficial and proper for the welfare and progress of the real estate licensees and of the public and of the real estate business in Guam.

SOURCE: GC §58060; R/R by P.L. 13-162:5.

§ 102112. Commission Records Open to Public Inspection.

All records of the Commission shall be open to inspection by the public during regular office hours, except as otherwise provided by law.

SOURCE: GC §58061.

CROSS-REFERENCES: § 102109 with respect to real estate examinations: 5 GCA Chapter 8, *Open Government Law*.

**ARTICLE 2
REAL ESTATE COMMISSIONER**

- § 102201. Enforcement powers.
- § 102202. Commissioner & Deputies May Not Act In Real Estate Business.
- § 102203. Seal: Use As Evidence. [Repealed]
- § 102204. Attorney General: Opinions, Advice. [Repealed]
- § 102205. Rules & Regulations. [Repealed]
- § 102206. Employment of Credit Reporting Agency.
- § 102207. Injunctions Against Violations.
- § 102208. Directory of Licensees.
- § 102209. Bulletins: Other Regular Publications.
- § 102210. Cease & Desist Order.
- § 102211. Notice Of Violations: Withdrawal of Objections.
- § 102212. Power of Commissioner to Require Advance Approval.

§ 102201. Enforcement Powers.

The Commissioner shall enforce the provisions of this Division. He has full power to regulate and control the issuance and revocation, both temporary and permanent, of all licenses to be issued under the provisions of this Division, and to perform all other acts and duties provided in this Division and necessary for their enforcement.

SOURCE: GC §58070.

§ 102202. Commissioner & Deputies May Not Act In Real Estate Business.

After qualifying as such, neither the Commissioner nor any of the deputies, or employees of the department shall be interested in any real estate brokerage firm, as director, stockholder, officer, member, agent, or employee, or act as a broker or salesman, or act as a copartner or agent for any broker or brokers, salesman or salesmen.

SOURCE: GC §58071.

§ 102203. Seal: Use As Evidence.

[Repealed]

SOURCE: GC §58072; repealed by P.L. 13-162:1

§ 102204. Attorney General: Opinions, Advice.

[Repealed]

SOURCE: GC §58073; repealed by P.L. 13-162:1.

§ 102205. Rules & Regulations.

[Repealed]

SOURCE: GC §58074; repealed by P.L. 13-162:1.

§ 102206. Employment of Credit Reporting Agency.

The Commissioner may secure a credit or investigation report of any applicant for a license under this Division from an agency engaged in the business of furnishing credit reports.

SOURCE: GC §58075.

§ 102207. Injunctions Against Violations.

Whenever the Commissioner believes from evidence satisfactory to him that any person has violated or is about to violate any of this Division,

or any order, license, permit, decision, demand or requirement, or any part or provision thereof he may bring an action in the name of the people of the Territory of Guam in the Superior Court of Guam against such person to enjoin such person from continuing such violation or engaging therein or doing any act or acts in furtherance thereof.

In this action an order or judgment may be entered awarding such preliminary or final injunction as may be proper, but no preliminary injunction or temporary restraining order shall be granted without at least five days' notice to the opposite party.

SOURCE: GC §68076.

§ 102208. Directory of Licensees.

The Commissioner may publish or cause to be published at appropriate intervals a directory or list of licensed brokers and salesmen and may publish therewith such matter as he may deem pertinent to this Division. He shall furnish one copy of such director to each licensed broker upon his request and payment of an appropriate charge based upon cost of publication. Such directory may contain copies of this Division, other applicable territorial laws, and the Rules and Regulations of the Real Estate Commissioner.

SOURCE: GC §58077.

§ 102209. Bulletins: Other Regular Publications.

The Commissioner may periodically issue a bulletin continuing matter relating to the provisions of this Division, and the administration thereof, and may publish the same character of matter in any established periodical published in the territory which in his opinion would be most likely to disseminate such matter and information to licensees under this Division.

SOURCE: GC §58078.

§ 102210. Cease & Desist Order.

Whenever in the opinion of the Commissioner any person has or is violating, or is about to violate, any of the provisions of this Division, the Commissioner may order the person to desist and refrain from doing so. If, after such order is made, a request for hearing is filed in writing and hearing is not held within sixty (60) days thereafter, the order is rescinded.

SOURCE: GC §58079.

§ 102211. Notice of Violations: Withdrawal of Objections.

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No person shall engage in any activity after receiving a notice in writing from the Commissioner that in the opinion of the Commissioner such activity violates a provision of this Division, unless the Commissioner subsequently, in writing, withdraws his objections to the activity.

SOURCE: GC §58080.

§ 102212. Power of Commissioner to Require Advance Approval.

The Commissioner may require that any or all materials used in obtaining advance fee agreements, including but not limited to the contract forms, letters or cards used to solicit prospective sellers, and radio, newspaper, and television advertising be submitted to him at least five days before they are used. Should the Commissioner determine that any matter, when used alone or with any other matter, would tend to mislead, he may within five days of the date he receives same, order that it not be used, disseminated, nor published. Any person using, disseminating, or publishing any matter which the Commissioner has ordered, pursuant to this Section, not be used, published or disseminated shall be guilty of a petty misdemeanor.

The Commissioner may determine the form of the advance fee agreements, and all material used in soliciting prospective owners and sellers shall be used in the form and manner which he determines is necessary to carry out the purposes and intent of this Division.

Any violation of any of the provisions of this Division or of the rules, regulations, orders or requirements of the Commissioner thereunder shall constitute grounds for disciplinary action against a licensee, or for proceedings under this Section, or both. The sanctions are in addition to the criminal proceedings hereinbefore provided.

SOURCE: GC §58081; First paragraph amended by P.L. 13-187:260 to conform with Title 9 GCA, *Crimes & Corrections*.

**ARTICLE 3
HEARINGS**

- § 102301. Prescribed Procedure: Powers of Commissioner.
- § 102302. Time for Filing Accusation.
- § 102303. Proceeding with Investigation After Lapse or Suspension.
- § 102304. Transcript of Papers: Demand: Fees.

§ 102301. Prescribed Procedure: Powers of Commissioner.

Before denying, suspending, or revoking any license issuable or issued under the provisions of this Division, the Commissioner shall proceed as prescribed by the Administrative Adjudication Law, and the Commissioner shall have all the powers granted therein.

SOURCE: GC §58100.

CROSS-REFERENCES: 5 GCA Chapter 9, *Administrative Adjudication Law*.

§ 102302. Time for Filing Accusation.

The accusation provided for by 5 GCA §9201 shall be filed not later than three years from the occurrence of the grounds for revocation or suspension with which the respondent is charged.

SOURCE: GC §58101.

§ 102303. Proceeding with Investigation After Lapse or Suspension.

The lapsing or suspension of a license by operation of law or by order or decision of the Commissioner or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the Commissioner of jurisdiction to proceed with any investigation or actio or disciplinary proceeding against such licensee, or to render a decision suspending or revoking such license.

SOURCE: GC §58102.

§ 102304. Transcript of Papers: Demand: Fees.

Any party aggrieved by the decision of the Commissioner may make a demand in writing for a certified transcript of all the papers on file in his office affecting or relating to such decision and all the evidence taken on the hearing.

The fee for a certified transcript is twenty-five cents (\$0.25) per page.

SOURCE: GC §58103.
