

1 GCA GENERAL PROVISIONS
CH. 17 COMMISSION ON SELF-DETERMINATION
FOR THE PEOPLE OF GUAM

CHAPTER 17
COMMISSION ON SELF-DETERMINATION
FOR THE PEOPLE OF GUAM

SOURCE: This entire Chapter was added by P.L. 15-128:1 (May 31, 1980), as Chapter XII of Title 2 (§§ 1960-1976) of the Government Code. Section titles for each provision were added by the previous Compiler of Laws during the codification process. This Chapter was dramatically restructured by P.L. 17-042 (Jan. 13, 1984). The entire Chapter was later codified to the GCA as Chapter 17.

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§ 1700. Statement of Legislative Purpose.

Noting that the unincorporated territory of Guam is the only organized Government in the West Pacific whose political status has remained unchanged for the last thirty (30) years, finding that the people of Guam demand a mechanism whereby the status of their government vis-a-vis the United States and the rest of the world be redefined, and acknowledging that the past attempts to change the status of the territory by means of constitutional conventions have failed because the views of the people of Guam were not sought prior to the initiation of such proposed constitution, the Legislature declares that the time has come for the people of Guam to actively seek commonwealth status for the territory from the Congress of the United States. The purpose of this Chapter is to establish a Commission on Self Determination for the people of Guam empowered to represent them in manifesting the desires of the people of Guam as expressed in the plebiscite of November 2, 1982 in which the status of commonwealth was the choice of the people to the Congress and to the government of the United States, and a further purpose of this Chapter is to establish guidelines and procedures by which the commonwealth status may be achieved.

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SOURCE: GC § 1960, added by P.L. 15-128 (May 31, 1980), amended by P.L. 17-042:1 (Jan. 13, 1984). Codified to this section of the GCA by the Compiler.

2015 NOTE: Past publications of the GCA included the following Compiler's Comment:

COMMENT: This, and other amendments made to Chapter 17 by P.L. 17-042, restructure the Commission on Self-Determination to reflect the referendum (plebiscite) on Commonwealth held in 1982, and the fact that the reformed Commission will work for the single aim of establishing a Commonwealth status for Guam.

§ 1701. Creation and Membership.

There is established a Commission on Self Determination for the people of Guam which shall be composed of nine (9) members including the Chairperson. The Governor shall serve as Chairperson of the Commission. Two (2) members of the Commission shall be appointed by the Governor; three (3) members of the Legislature, of which one (1) shall be a member of and be selected by, the Legislature's minority, one (1) member to be the Chairperson on Federal, Foreign and Legal Affairs, and one (1) to be appointed by the Speaker, who may appoint himself; one (1) member of the Mayors Council shall be appointed by the Mayors Council; one (1) member to represent the judiciary to be appointed by the Chief Justice who may appoint himself; and one (1) member to represent the youth of Guam to be appointed by the Speaker of the Youth Congress from among the qualified members of the Guam Youth Congress or he may appoint himself. The Commission shall choose a vice-chairperson from among the members of the Commission. No person shall be eligible to serve as a member of the commission unless he or she shall be a citizen of the United States qualified to vote on Guam. Members shall serve so long as they retain the positions they occupy or are members of the groups they represent when appointed. The term of any non-elected appointee appointed by the Governor shall expire with the term of the appointing authority. Vacancies in the membership shall be filled in the same manner as the original appointment.

SOURCE: GC § 1961, added by P.L. 15-128 (May 31, 1980), amended by P.L. 15-133:3 (July 2, 1980), P.L. 17-042:2 (Jan. 13, 1984). Codified to this section of the GCA by the Compiler. Amended by P.L. 22-067:1 (Jan. 18, 1994).

2015 NOTE: Pursuant to an amendment to § 22A(b)(2) of the Organic Act of Guam by Pub. L. 108-378:1(b) (Oct. 30, 2004), references to "Presiding Judge" have been changed to "Chief Justice of the Supreme Court of Guam." See 48 U.S.C. § 1424-1(b)(2).

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P.L. 22-067:1 (Jan. 18, 1994), which added a youth member to the Commission on Self-Determination, erroneously referred to 2 GCA § 1701, and not 1 GCA § 1701. The reference is a manifest error as 2 GCA § 1701 does not exist, and the Compiler codified the amendment to 1 GCA § 1701 pursuant to the authority at the time, 1 GCA § 1605.

§ 1702. Function.

The general purpose of the Commission is to take any and all steps necessary to communicate with the federal government regarding the form of commonwealth agreement which the people of Guam desire, including but not limited to formulating and drafting a Covenant defining the parameters of Guam's powers and its relationship with the United States; studying existing applicable domestic and international laws, treaties, constitutions and agreements which may have a bearing on the present and future relationship between the United States and Guam; and proposing draft modifications of such laws, treaties, constitutions and agreements which might adversely impact upon Guam's development, such drafts and proposals resulting from communications between the Commission and representatives of the federal government regarding such legislation.

SOURCE: GC § 1962, added by P.L. 15-128 (May 31, 1980), amended by P.L. 17-042:3 (Jan. 13, 1984). Codified to this section of the GCA by the Compiler.

§ 1703. Local Approval Process.

After the purposes of the Commission have been accomplished as set out under 1 GCA § 1702 the Commission shall reduce the desires of the people to a written covenant, a federal-territorial relations act or any other proposed legislation, if necessary, to be submitted to the Congress of the United States as the manifest will of the people of Guam on the question on their relationship with the government of the United States of America and on the question of any federal laws affecting Guam. The Commission shall hold public hearings on the proposed draft(s) to be submitted to the Congress of the United States. Before a covenant or federal-territorial relations act is introduced in the Congress of the United States, a plebiscite shall be taken on Guam to determine if the people support the covenant or federal-territorial relations act in its form as drafted by the Commission. The Commission shall represent the people of Guam in any communications with the Congress of the United States or with representatives of the federal government regarding any steps necessary towards the implementation of such covenant or federal-territorial relations act or both, if approved by the

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people of Guam by majority vote of those persons voting in the referendum provided for in 1 GCA § 1706.

SOURCE: GC § 1974, added by P.L. 15-128 (May 1, 1980). Renumbered to GC § 1963 and amended by P.L. 17-042:5 (Jan. 13, 1984). Codified to this section of the GCA by the Compiler.

§ 1704. General Powers.

The Commission shall have, and may exercise, the following general powers in carrying on the activities specified in this Chapter:

(a) To acquire, in any lawful manner, any property real, personal, mixed, tangible or intangible -- to hold, maintain, use and operate the same; and to sell, lease 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 Chapter, and on such terms as may be prescribed by the Commission.

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

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

(d) To appoint, without regard to the provisions of the Personnel and Compensation Laws, such officers, agents, attorneys, consultants and employees as may be necessary for the conduct of the business of the Commission; delegate them such powers and to prescribe for them such duties as may be deemed appropriate by the Commission; to fix and pay such compensation to them for their services as the Commission may determine, without regard to the provisions of the Personnel and Compensation Laws. In the appointment of officials and the selection of employees, agents and consultants for the Commission, no political test or qualification shall be permitted or given consideration, but all such appointments shall be given and made on the basis of merit and knowledge. The Commission shall give due

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consideration to residents of Guam in the selection of its officials, attorneys, agents, consultants and employees.

(e) 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 Chapter.

(f) To adopt rules and regulations governing operations of the Commission and to take such other action as may be necessary or appropriate to carry out the powers and duties herein specified or hereafter granted to or imposed upon it.

SOURCE: GC § 1975, added by P.L. 15-128 (May 1, 1980). Renumbered as GC § 1964 by P.L. 17-042:6 (Jan. 13, 1984). Codified to this section of the GCA by the Compiler.

§ 1705. Repository for Commission Documents.

The Nieves Flores Memorial Library shall be the depository of all public records and materials pertaining to political status of the territory of Guam. The Commission and Office shall transfer all of its official public documents upon completion of its work.

SOURCE: GC § 1976, added by P.L. 15-128 (May 1, 1980). Renumbered to GC § 1965 and amended by P.L. 17-042:7 (Jan. 13, 1984). Codified to this section of the GCA by the Compiler.

2015 NOTE: According to P.L. 15-128, the Micronesian Area Research Center was to serve as the repository for records and materials. The repository was later amended to the Nieves Flores Memorial Library by P.L. 17-042.

§ 1706. Ratification of Commission's Proposal.

Upon the completion of the drafting of a covenant or federal-territorial relations act to be introduced in the United States Congress, and after the Commission and representatives of the United States Government have completed whatever communications are necessary to finalize such a covenant or act, the Commission shall conduct a public education program to inform the people of Guam about the covenant or act. Prior to the commencement of the public education program, however, the Commission shall notify the election Commission of a desired date upon which the draft covenant or act shall be submitted to the voters for ratification. The Guam Legislature shall establish a date for such referendum, to be conducted consistent with Title 3 of the Guam Code Annotated, except that §§ 3105 and 4104 of Title 3 of the Guam Code Annotated shall not be applicable to

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the elections required to be conducted pursuant to this Chapter. In lieu of the provisions of those Sections, the Election Commission shall conduct registration only at its main office and appoint to each and every polling place a precinct board consisting of an inspector and two (2) judges, each of whom shall be paid Fifty Dollars (\$50.00) for their services. Upon ratification of a draft of a covenant or federal-territorial relations act by a majority of the voters voting in such referendum, the draft agreement and the results of the referendum shall be transmitted by the Governor to the President of the United States, the Speaker of the United States House of Representatives and the President of the Senate with a request that it be enacted into law.

SOURCE: GC § 1966, added by P.L. 17-042:8 (Jan. 13, 1984). Codified to this section of the GCA by the Compiler.

2015 NOTE: GC § 1966 was originally added by P.L. 15-128, but was repealed by P.L. 17-042:4 (Jan. 13, 1984).

Past publications of the GCA included the following Compiler's Note:

NOTE: The first vote held under this section was held, pursuant to P.L. 18-33:2, on April 18, 1987. Because the voters rejected Articles 1 and 7 (Political Status and Immigration, respectively), a second vote, on rewritten Articles 1 and 7, was held on August 8, 1987, by authority of P.L. 19-03:2. As a result of the two votes, the Draft Commonwealth Act was approved, as modified for the second vote.

The Draft Commonwealth Act was presented to the Congress, through Congressmen Blaz, Udall and Delugo, in Washington, D.C. on February 17, 1988. The Draft Commonwealth Act was introduced into the House of Representatives as the "Guam Commonwealth Act" (HR 4100) on March 7, 1988. It was also introduced into the U.S. Senate shortly thereafter.

§ 1707. Quarterly Reports.

At the end of every calendar quarter, the Commission shall transmit to the Legislative Secretary and to the Nieves Flores Public Library, its report on the status of Guam's efforts to secure approval and implementation of the draft Commonwealth Act, such report to contain details of the Commission's communications with Federal officials in its ongoing attempt to secure commonwealth status, all contracts executed, property acquired, transferred or disposed of, funds encumbered therefor, and increases or reductions in numbers of staff employees or consultants with the names of the persons concerned.

SOURCE: Added by P.L. 20-136:5 (Mar 20, 1990).

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§ 1708. Independent Audit.

In accord with § 11101 of Title 2, Guam Code Annotated, the Legislature shall annually cause an audit to be made by an independent audit firm, at least one of whose members is a certified public accountant, of all accounts and financial transactions of the Commission, which audit shall be under the direction and supervision of the Legislature."

SOURCE: Added by P.L. 20-136:5 (Mar. 20, 1990).

§ 1709. Commission Membership Declared Vacant.

The positions of all former members and staff of the Commission on Self-Determination, as established under P.L. 15-128, as amended, having accomplished the primary purposes of the Commission in Phase One of its tasks, are hereby vacated effective upon enactment of this law in order to allow for a reappointment and reduction in number of the members of the Commission, enabling them to more effectively accomplish the goals of Phase Two of the Commission's tasks. Former members and staff of the Commission are eligible to be reappointed to continue the Commission's work.

SOURCE: Added as uncodified law by P.L. 17-042:9 (Jan. 13, 1984), and codified by the Compiler as 1 GCA § 1718. Renumbered to this section by the Compiler pursuant to the authority granted by 1 GCA § 1606.

2015 NOTE: This section was originally entitled "*Same: Final Draft, Referendum.*" Enacted as GC § 1969 by P.L. 15-128:1 (May 31, 1980), and repealed by P.L. 16-022:1 (June 29, 1981).

Past publications of the GCA included §§ 1710 to 1713, provisions which had been added to the Government Code by P.L. 15-128 and repealed by P.L. 17-042; and § 1717, which had been added to the Government Code by P.L. 16-064 and repealed by P.L. 17-042.
