

5 GCA GOVERNMENT OPERATIONS
CH. 7 ENFORCEMENT OF PROPER GOVERNMENT SPENDING

CHAPTER 7
ENFORCEMENT OF PROPER GOVERNMENT SPENDING

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§ 7101. Legislative Intent.

It is the intent of the Legislature that the government of Guam practice fiscal responsibility, and that the persons who spend the taxpayer's money follow the mandates of law in expending government funds. Historically, there have been many instances of government officials in the government of Guam spending and obligating money without appropriation or contrary to law. Since the Attorney General is the only officer empowered to bring court actions to control such illegal spending and the only officer who can represent the government in recovering such money, and since the Attorney General is an appointed member of the Governor's cabinet, laws relating to improper spending of funds by the Executive Branch have generally not been enforced, and in some instances been openly ignored.

SOURCE: GC § 6280(a) added by P.L. 18-09.

§ 7102. Standards Established for Handling Money.

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Any officer, agent, contractor, or employee of the Executive Branch of the government of Guam who is charged with or assumes responsibility for the certification of availability of funds or the spending of money belonging to the territory of Guam, including the Governor and Lt. Governor of Guam, stands in a fiduciary relationship to the people of Guam in regard to the management of public money. Any such officer, agent, contractor, or employee of the Executive Branch shall discharge their duties with respect to the management of public money solely in the interest of the people of the territory of Guam. Any such officer, agent, contractor, or employee shall discharge his duties with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims.

SOURCE: GC § 6280(b) added by P.L. 18-09.

§ 7103. Taxpayer Standing to Sue.

Any taxpayer who is a resident of Guam shall have standing to sue the government of Guam and any officer, agent, contractor, or employee of the Executive Branch of the government of Guam for the purpose of enjoining any officer, agent, contractor, or employee of the Executive Branch of the government of Guam from expending money without proper appropriation, without proper authority, illegally, or contrary to law, and to obtain a personal judgment in the courts of Guam against such officers, agents, contractors, or employees of the government of Guam and in favor of the Government of Guam for the return to the Government of Guam of any money which has been expended without proper appropriation, without proper authority, illegally, or contrary to law. For purposes of this Chapter, the Governor and Lt. Governor of Guam are officers of the government of Guam, and are included within the scope of this Chapter.

SOURCE: GC § 6280(c) added by P.L. 18-9.

§ 7104. Plaintiff's Bond.

In the event of any action brought under this Chapter by a taxpayer and resident of Guam against the government of Guam or any of the officers, contractors, or employees of the government of Guam, the court may require that a bond be posted by the Plaintiff in an amount not less than \$25 nor more than \$100.

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SOURCE: GC § 6280(d) added by P.L. 18-9.

§ 7105. Government May Intervene.

The government of Guam, through the Attorney General, shall be entitled as a matter of right, to intervene in any suit brought under this Section.

SOURCE: GC § 6280(e) added by P.L. 18-9.

§ 7106. Minimum Amount of Suit.

No suit may be brought under this Chapter unless the cumulative amount of illegal expenditures alleged, both past and future, are equal to or exceed \$1,000.

SOURCE: GC § 6280(f) added by P.L. 18-9.

§ 7107. Entities Included within Scope of Chapter.

As used in this Chapter, the government of Guam includes but is not limited to the Governor; the Lt. Governor; Office of the Governor; Government House; line agencies, bureaus, and departments of the government of Guam; autonomous boards, agencies and authorities of the government of Guam; the Guam Visitors' Bureau to the extent that funds contributed or appropriated by the government of Guam are involved; and any other instrumentality, agency, bureau, or department of the government of Guam.

SOURCE: GC § 6280(g) added by P.L. 18-9.

§ 7108. Limitation on Actions.

There shall be a five year statute of limitations upon any action brought under this Chapter. Once judgment is obtained, there shall be no statute of limitations upon the collection of any judgment obtained against any officer, employee, contractor, or agent of the government of Guam under this Chapter.

SOURCE: GC § 6280(h) added by P.L. 18-9.

§ 7109. Who May Collect Judgment.

The Attorney General shall take all steps necessary to collect any judgment obtained under this Chapter. If no collection on such judgment is made by the Attorney General within six months of the date of the judgment, then the taxpayer and resident who originally obtained the judgment shall have standing to pursue execution and collection on the

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judgment on behalf of the government of Guam, under the supervision of the Superior Court.

SOURCE: GC § 6280(i) added by P.L. 18-9.

§ 7110. Limits on Garnishment.

One half of any salary or remuneration due to any agent, officer, contractor, or employee of the government of Guam who has a judgment against him pursuant to this statute shall be deducted from any pay or other sums due such individual, until the judgment obtained under this Chapter is fully paid. If any federal law prohibits the deduction as herein mandated, then the deduction shall be such lesser amount as allowed by federal law.

SOURCE: GC § 6280(j) added by P.L. 18-9.

§ 7111. Representation of Individual Defendants.

The Attorney General's Office or the legal counsel for the government of Guam entity for whom an individual defendant works may represent individual defendants in any action brought under this Chapter. In the event that individual defendants who are officers, agents, contractors, or employees of the government of Guam have private counsel, and are later exonerated of any wrongdoing, then, and in that event, the government of Guam, or the financially autonomous government of Guam entity for which the officer or employee works, shall reimburse the defendants for their legal fees.

SOURCE: GC § 6280(k) added by P.L. 18-9.

§ 7112. Award of Attorney's Fees.

The court shall award reasonable costs and attorney's fees in favor of the taxpayer and resident who brings suit under this Chapter, against any defendants found liable under this Chapter.

SOURCE: GC § 6280(l) added by P.L. 18-9.

§ 7113. Claims Act Not Applicable.

Compliance with the government of Guam Claims Act [Chapter 6 of this Title] shall not be required as a prerequisite for suit under this Chapter.

SOURCE: GC § 6280(m) added by P.L. 18-9.

§ 7114. Failure to Bond not a Defense.

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The failure of the government of Guam to bond its employees, agents, contractors, or officers, shall not be a defense in any action brought under this Chapter.

SOURCE: GC § 6280(n) added by P.L. 18-9.

§ 7115. Standing; Legislative Counsel May Represent Senators and the Guam Legislature as Plaintiffs.

The Senators and the Guam Legislature shall have standing to sue under this Chapter. The Legislative Counsel, or Assistant Legislative Counsel, may, as a part of his or her duties for the Guam Legislature, represent members of the Guam Legislature or the Guam Legislature, or both, in bringing suit under this Chapter, provided that in such cases, attorney's fees will not be allowed.

SOURCE: Repealed and reenacted by P.L. 24-143:25.

§ 7116. Expedited Schedule of Discovery.

At the first hearing before the Superior Court in any action brought under this Chapter, the court may order an expedited schedule of discovery and pleading, and an expedited schedule and trial date for the case, if requested by any party.

SOURCE: GC § 6280(p) added by P.L. 18-9.

§ 7117. Chapter Prospective Only.

No action may be brought under this Chapter except for expenditures made after the effective date of this Act [July 8, 1985].

SOURCE: GC § 6280(q) added by P.L. 18-9.

§ 7118. Lobbying Permitted.

(a) **Authorization.** *I Maga'lahaen Guåhan* is authorized to procure the services of a lobbyist, provided he expends *no more than* One Million Dollars (\$1,000,000) within any given fiscal year from the annual operating budget appropriated to the Office of the Governor. *I Maga'lahaen Guåhan* is further authorized to hire as many lobbyist as may be necessary in order to meet the mandates of this Chapter, provided that the aggregate amount of all such contracts pursuant to this authorization *does not exceed* One Million Dollars (\$1,000,000) in any one fiscal year. *I Maga'lahaen Guåhan shall not* transfer funds into the Office of the Governor's budget in order to pay for such contracts.

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(b) **Scope of Work.** Any lobbying contracts entered into by *I Maga'lahaen Guåhan*, on behalf of the people of Guam, and any individual, individuals, firm or firms contracted as lobbyist shall be limited to the following areas:

- (1) The impending Military Buildup;
- (2) Immigration policies and controls, including visa waiver programs for China and the Philippines;
- (3) Compact Impact Reimbursement
- (4) Section 30 funding;
- (5) Veteran's Issues;
- (6) War reparations;
- (7) Political status;
- (8) Chamorro self-determination;
- (9) Return of ancestral lands;
- (10) Cleanup of environmental hazards;
- (11) Investigation of serious health problems possibly related to federal activity;
- (12) Mass transit and public transportation;
- (13) Utilities and telecommunications;
- (14) Public education (Department of Education, Guam Community College and the University of Guam);
- (15) Public health;
- (16) Public safety and homeland security;
- (17) Protecting the environment; and
- (18) Economic development.

(c) **Team Guam Approach.** The provision of § 7118 (a) of this Act shall become effective *only* upon *I Liheslatura's* receipt of *I Maga'lahaen Guåhan's* proposed legislation institutionalizing the formation of a "Team Guam" approach requiring direct involvement of *I Maga'lahaen Guåhan*, the Speaker of *I Liheslaturan Guahan*, and Chief

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Justice of the Judiciary of Guam in all dealings with the Congress of the United States, the entire Federal Government, including the Department of the Interior, and the Department of Defense relative to the military buildup and relations with the Armed Forces.

SOURCE: Added by P.L. 27-29:V:27. Repealed and reenacted by P.L. 29-113:VI:28 (Sept. 30, 2008).

2009 NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the Department of Education to the Guam Public School System. P.L. 30-050:2 (July 14, 2009) reverted the name of the Guam Public School System to the Department of Education.

§ 7119. Lobbying Prohibited.

No government or public funds of any nature shall be expended in support of any lobbyist, unless specifically authorized by law. This Section shall apply to all line agencies, all autonomous agencies, and public corporations. No government officer or employee may accept the services of a lobbyist on a volunteer basis.

SOURCE: Added by P.L. 29-113:VI:27 (Sept. 30, 2008).
