

CHAPTER 109
FOREIGN EXCHANGE

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§ 109101. Commissioner of Banking.

Commissioner as used in this Article shall mean the Commissioner of Banking and Insurance for the territory of Guam.

SOURCE: GC §30950.

2011 NOTE: Reference to the “Banking Commissioner” changed to the “Commissioner of Banking and Insurance” pursuant to P.L. 27-088:10 (May 6, 2004).

§ 109102. Foreign Exchange License.

No person shall engage in the business of selling foreign currency notes or engage in the business of receiving money for the purpose of transmitting the same or its equivalent to foreign countries without first obtaining a license from the Commissioner. For the purposes of this

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Article *licensee* means any person licensed pursuant to this Article. The provisions of this Article shall also apply to persons engaged in the business of receiving money for the purpose of transmitting the same within the United States by an instrument or order drawn upon and directed to the person receiving the money for transmission. The provisions of this Article shall not apply to (a) a bank or trust company or a foreign banking corporation licensed to do business in this territory, or (b) the receipt of money by an agent of an incorporated telegraph company at any regular office of such company for immediate transmission by telegraph.

SOURCE: GC §30951.

§ 109103. Foreign Exchange License Fee.

Every licensee *shall* pay annually or before July 1st a license fee of Five Hundred Dollars (\$500.00)..

SOURCE: GC §30952. Amended by P.L. 29-002:V:I:31 (May 18, 2007).

§ 109104. Foreign Exchange License Application.

An application for a license shall be in writing, under oath, and in a form prescribed by the Commissioner. It shall contain the name and address of the applicant, the name and address of every agent thereof, and, if a corporation, of every officer and director thereof. Additionally, it shall state whether the license being applied for is to be used for the sale of foreign currency notes or the transmittal of money or both. The application shall also contain such other information as the Commissioner may require.

SOURCE: GC §30953.

§ 109105. Denial of Foreign Exchange License.

The Commissioner may deny an application for a license issued pursuant to this Article if, after a hearing pursuant to the provisions of the Administrative Adjudication Act, he finds that:

- (a) The granting of the license will be against public interest;
- (b) The applicant does not intend actively and in good faith to carry on as a business with the general public the transaction which would be permitted by the issuance of the license applied for;
- (c) The applicant, and if a corporation, a director or officer thereof is not of good business reputation;

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(d) The applicant, and if a corporation, a director or officer thereof, is lacking in integrity;

(e) The applicant, and if a corporation, a director or officer thereof, has been refused a professional, occupational or vocational license or had such a license suspended or revoked by any licensing authority for reasons that should preclude the granting of the license applied for;

(f) The applicant has knowingly or willfully made a misstatement in an application to the Commissioner for a license, or in a document filed in support of such application, or has made a false statement in testimony given under oath before the Commissioner or any other person acting in his stead;

(g) The applicant, and if a corporation, a director or officer thereof, has previously engaged in a fraudulent practice or act or has conducted any business in an unlawful or dishonest manner;

(h) The applicant, and if a corporation, a director or officer thereof, has shown incompetency or untrustworthiness in the conduct of any business, or has by commission of a wrongful act or practice in the course of any business exposed the public or those dealing with him to the danger of loss;

(i) The applicant, and if a corporation, a director or officer thereof, has failed to perform a duty expressly enjoined upon him by a provision of this Article or the rules promulgated by the Commissioner or has committed an act expressly forbidden by such provisions or by such rules;

(j) The applicant, and if a corporation, a director or officer thereof, has been convicted of:

(1) A felony;

(2) Any crime involving moral turpitude; or

(3) A public offense having as one of its necessary elements a fraudulent act or an act of dishonesty in acceptance, custody, or payment of money or property;

(k) The applicant, and if a corporation, a director or officer thereof, has aided or abetted any person in an act or omission which would constitute grounds for the suspension, revocation or refusal

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of a license issued under this Article to the person aided or abetted;
or

(1) The applicant has permitted any person in his employ to violate any provision of this Article.

SOURCE: GC §30954.

§ 109106. Issuance of Foreign Exchange License.

If the application is approved by the Commissioner he shall, upon the payment of the license fees, issue and deliver to the applicant a license to engage in business in accordance with this Article.

SOURCE: GC §30955.

§ 109107. Expiration and Renewal of Foreign Exchange License.

The license is not transferable or assignable. Licenses expire on the 1st day of July following the date of issuance, unless on or before the 15th day of June prior to the expiration date the licensee files an application for renewal and pays to the Commissioner the license fees as prescribed in this Article.

SOURCE: GC §30956.

§ 109108. Registration of Agents.

Every agent of a licensee *shall* register with the Commissioner and *shall* pay annually on or before July 1st a registration fee of Fifty Dollars (\$50.00).

SOURCE: GC §30957. Amended by P.L. 29-002:V:I:32 (May 18, 2007).

§ 109109. Investigative Powers: Books and Records.

The Commissioner may at any time and from time to time examine the business of any licensee or its agents in order to ascertain whether such business is being conducted in a lawful manner and whether all moneys received for transmission are properly accounted for. Each licensee and its agents shall keep books, records, and accounts in such form and manner as the Commissioner may prescribe.

SOURCE: GC §30958.

§ 109110. Filing of Receipt Forms.

Each licensee shall file with the Commissioner a certified copy of every receipt form used by it or by its agents for selling foreign currency notes or for money received for transmission. Receipts used shall be

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printed and prenumbered and consist of at least two copies, one to be given to the customer, the other to be retained by the licensee for record keeping purposes. A receipt used for the sale of foreign currency notes shall contain not less than the following information: The amount and country of origin of the foreign currency notes; the rate of exchange of the foreign currency notes; the rate of exchange of the transaction; the U.S. dollars proceeds of the sale.

A receipt used for the transmittal of money shall contain in addition to the above information required for the sale of foreign currency notes the following: The name and address of the beneficiary.

No such licensee or its agents shall use any receipt a certified copy of which has not first been filed with the Commissioner. Any licensee violating the requirement of this section shall be subject to a fine of Fifty Dollars (\$50.00) for each violation. If any such licensee or its agent uses a receipt form a certified copy of which has not first been filed with the Commissioner, such licensee shall be liable for the acts of its agents whether or not the licensee authorized the agent to use such form.

SOURCE: GC §30959.

§ 109111. Forwarding of Funds.

Every licensee or its agent shall forward all moneys received for transmission to a foreign country or give instructions committing equivalent funds to the person designated by the depositor within ten (10) days after receiving such money, unless otherwise ordered by his customer.

SOURCE: GC §30960.

§ 109112. Security Deposit.

As security for the faithful performance of its obligations, each licensee before engaging in the business of transmitting money shall deposit with the Treasurer of Guam Fifty Thousand Dollars (\$50,000.00) in lawful money, or securities of the kind which may be deposited by trust companies to secure court and private trusts, having a market value of at least Fifty Thousand Dollars (\$50,000.00).

SOURCE: GC §30961.

§ 109113. Security Bond.

In lieu of the deposit of money and securities pursuant to § 109112, a licensee may deliver to the Commission the bond of a surety company,

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in form and written by a company satisfactory to the Commissioner, in the principal sum of Fifty Thousand Dollars (\$50,000.00), conditioned upon the faithful holding and transmission of all money received by such licensee or its agents for such purpose. The Commissioner shall deposit such bond with the Treasurer of Guam.

SOURCE: GC §30962.

§ 109114. Trust Fund.

The money and securities deposited with the Treasurer of Guam pursuant to § 109112 and the proceeds of any bond held by the Treasurer of Guam pursuant to § 109113 shall constitute a fund for the benefit of such persons as shall deliver to any such licensee or its agents money for transmission. Suit to recover on any such bond may be brought by any party aggrieved in a court of competent jurisdiction. The service of summons on any agent of such licensee shall constitute service upon such licensee.

SOURCE: GC §30963.

§ 109115. Maximum Fee for Selling or Cashing Instruments.

No licensee engaged in the business of selling or cashing checks, including traveler's checks, drafts, or money orders within the United States by an instrument or order drawn upon and directed to the person receiving the money for transmission, shall charge a fee for selling or cashing such instruments, except traveler's checks, in excess of one-half of one per cent (1/2 of 1%) of the face amount thereof or Fifty Cents (\$0.50), whichever is greater.

SOURCE: GC §30964.

§ 109116. Ownership of Funds for Transmission to Foreign Country.

All funds, less fees, received by a licensee or its agents for transmission to a foreign country shall constitute trust funds owned by and belonging to the person from whom they were received until such time as directions have been given by the licensee or its agents for payment abroad of the remittance and funds provided for such payment.

SOURCE: GC §30965.

§ 109117. Order to Cease Unlawful Practice.

If it appears to the Commissioner that a licensee is violating or failing to comply with the law the Commissioner may direct it to comply

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with the law by an order issued over his official seal, or if it appears to the Commissioner that any licensee is conducting its business in an unsafe or injurious manner he may in like manner direct it to discontinue the unsafe or injurious practice.

The order shall require the licensee to show cause before the Commissioner at a time and place to be fixed by him why the order should not be observed.

SOURCE: GC §30966.

§ 109118. Final Order to Discontinue Practice.

If upon any hearing held pursuant to § 109117 the Commissioner finds that the licensee is violating or failing to comply with any law of this territory or is conducting its business in an unsafe or injurious manner he may make a final order directing it to comply with the law or to discontinue the unsafe or injurious practices. Unless within ten (10) days after the issuance of such final order its enforcement is restrained in a proceeding brought by the licensee, it shall forthwith comply therewith.

SOURCE: GC §30967.

§ 109119. Revocation or Suspension of License.

The Commissioner may revoke or suspend any license issued pursuant to this Article, if, after a hearing held pursuant to the Administrative Adjudication Act, he finds that:

- (a) The licensee has violated any provision of this Article or any rule or regulations adopted by the Commissioner; or
- (b) Any fact or condition exists which, if it had existed at the time of the original application for such license, would be grounds for denying an application for a license under § 109105; or
- (c) The licensee is conducting its business in an unsafe manner; or
- (d) The licensee has failed to obey a final order issued by the Commissioner.

SOURCE: GC §30968.

§ 109120. Rules and Regulations.

The Commissioner shall adopt rules and regulations necessary for the administration of this Article.

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SOURCE: GC §30969.

§ 109121. Review of Order.

Every order, decision, or other official act of the Commissioner subject to review in accordance with §9240, Chapter 9, Title 5, Guam Code Annotated.

SOURCE: GC §30970.

§ 109122. Criminal Penalty for Violation.

Every person who violates or fails to comply with any of the provisions of this Article, or who, without complying with the provisions of this Article, represents that he is authorized to receive, or who solicits or receives, money or the equivalent for transmission to a foreign country, is guilty of a felony.

SOURCE: GC §30971.

§ 109123. Civil Penalty for Violation.

Any person who violates any provision of the foregoing sections of this Article shall be liable to the people of the territory of Guam in a civil action brought by the Commissioner for a civil penalty in the amount of One Hundred Dollars (\$100.00) a day or part thereof during which such violation continues.

SOURCE: GC §30972.
