

12 GCA AUTONOMOUS AGENCIES
CH. 3 GUAM EDUCATIONAL TELECOMMUNICATIONS CORPORATION

CHAPTER 3
GUAM EDUCATIONAL TELECOMMUNICATIONS CORPORATION

Article 1. Guam Educational Telecommunications Corporation.
Article 2. Guam Film Office.

NOTE: In the 1974 Supplement of the 1970 Codes, the Editor, renumbered sections of this Chapter because duplicate sections already existed. The sections referred to as the source in this Chapter are those sections as enacted by the Legislature in P.L. 12-194, not the section numbers assigned in the 1974 Supplement.

2020 NOTE: Pursuant to P.L. 35-048:2 (Nov. 12, 2019) adding a new Article 2 to this Chapter, the Compiler designated a new Article 1 entitled “Guam Educational Telecommunications Corporation” for the existing provisions (§§ 3101- 3118) in this Chapter.

2011 NOTE: Pursuant to P.L. 30-018 (Apr. 17, 2009), all future references in Guam law made to “KGTF” or “KGTF-TV12” changed to read and mean “PBS Guam” except as it refers to its FCC Call Sign and License and the Guam Educational Telecommunications Corporation Charter.

ARTICLE 1
GUAM EDUCATIONAL TELECOMMUNICATIONS CORPORATION

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§ 3101. Title.

This Chapter may be cited as the Guam Educational Telecommunications Act of 1974.

SOURCE: GC § 61000.

§ 3102. Corporation.

There is hereby created a public corporation to be known as the Guam Educational Telecommunications Corporation hereinafter provided.

SOURCE: GC § 61001.

§ 3103. Purposes and Authorized Activities.

(a) It is the purpose of this Chapter to create a public corporation which will present educational television to the people of Guam and which will involve the people of Guam in its activities to the maximum extent possible.

(b) The Corporation is authorized to own, and be the licensee of that television facility now having the station call sign of KGTF, and any other like facilities which the Corporation may hereafter acquire, all for the purpose of fostering cultural and educational growth for the people of Guam, through the medium of television and electronic visual media.

(c) The Corporation is authorized to make studies, cause to be conducted investigations into the needs of the people of Guam, and their desires as it relates to the productions of the Corporation and programs shown by it.

(d) The Corporation is authorized to promulgate through its facilities such educational and cultural programming as it determines is proper, and to accept from any similar educational and cultural television stations or networks any programming which the Corporation desires to present on Guam.

(e) The Corporation is authorized to affiliate itself with any educational and cultural television station or network which would aid its functions on Guam, including, but not limited to such entities as the Public Broadcasting Service, and any educational satellite service which may be available.

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(f) The Corporation is authorized to obtain land belonging to the government of Guam as required to carry out its purposes and objectives, under such terms and tenure as the Legislature may prescribe by appropriate legislation.

(g) The Corporation at no time may be authorized to broadcast commercially.

(h) The Corporation is authorized to create and administer the Guam Film Office in order to advocate for the *Håfa Adai* spirit globally.

SOURCE: GC § 61002. Subsection (h) added by P.L. 35-048:3 (Nov. 12, 2019).

§ 3104. General Powers, Termination Date.

The Corporation shall have, and may exercise, the following general powers in carrying on the activities specified in § 3103 of this Chapter:

(a) To have perpetual succession, unless sooner terminated by law.

(b) To adopt, alter and use a corporate seal, which shall be judicially noticed.

(c) To adopt, amend and repeal by laws and other rules, regulations and directives governing the conduct of its business, and the performance of the powers and duties granted to or imposed upon it by law. No rule affecting the general public, as opposed to its employees, shall become effective without first complying with the Administrative Adjudication Act.

(d) To sue and be sued in its corporate name.

(e) To determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed and paid, subject to any limitation contained in any appropriation bill passed for the Corporation and the conditions or qualifications in any grant or gift received by the Corporation.

(f) To acquire, in any lawful manner, any property, real, personal or mixed, tangible or intangible, and to hold, maintain, use and operate the same, and to sell, lease,

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encumber 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 and conditions as may be prescribed by the Corporation.

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

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

(i) To directly employ or contract, with regard to the provisions of the Personnel and Compensation Laws, for the services of such clerical, technical, production and other employees as may be necessary for the conduct of the Corporation, to delegate to them such powers and to prescribe for them such duties as may be deemed appropriate by the Corporation or as may be set by law, to fix and pay such compensation to them for their services as the Corporation may determine with regard to the provisions of the government of Guam Personnel and Compensation Laws, to require bonds from such of them as the Corporation may designate, and to remove and discharge such employees and other clerical, technical and production personnel, likewise with regard to the provisions of personnel laws and regulations.

(j) To accept gifts, donations of services or of property of any description in aid of any of the activities authorized by this Chapter.

(k) To take steps to solicit gifts, donation of services or of property from the general public, from corporations and from any other source found by the Corporation in aid of its authorized activities, and to make this source of financing a

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major source of funds for the Corporation as soon as is possible.

(l) To request from the Legislature annual appropriations, and any necessary supplements thereto, said appropriations shall not exceed fifty percent (50%) of the total budget to sustain the Corporation and its authorized activities. Any appropriation authorized by this Subsection shall be contingent upon the Corporation's having matching funds available in the amount requested at the ratio of one to one. Said appropriation shall be in addition to the funds sought from non-governmental sources, or from federal grants or assistance, or from any assistance which might be received from quasi- governmental sources other than the government of Guam.

(m) To construct, equip, operate and maintain facilities necessary for the creation, production and transmission of programs of the type authorized to be shown by the Corporation. This shall specifically include the power to hold, in its own name, the FCC licenses required for the operation of Educational TV Station, KGTF, now owned and operated by the government of Guam.

(n) To create, produce, write, direct and transmit educational and cultural television programming over the facilities of the Corporation.

(o) To settle and adjust, claims held by it against other persons or parties and by other persons or parties against the Corporation.

(p) To take such action and carry on any other operations and do all that may be necessary or appropriate to carry out the powers and duties herein or hereafter specifically granted to or imposed upon the Corporation.

SOURCE: GC § 61003.

§ 3105. Board of Trustees.

The Corporation shall be governed by a Board of Trustees, who shall consist of seven (7) members of the general public: one (1) of whom must be employed as a classroom teacher with at least three (3) years of teaching experience, none of whom,

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except the classroom teacher, may be an employee of the government of Guam, who shall be appointed by *I Maga'lahen Guahan* with the advice of and consent of *I Liheslaturan Guahan*. The membership representing the general public shall serve for a term of four (4) years; provided, however, that in making the first appointment, *I Maga'lahen Guahan* shall designate three (3) persons to serve a one (1) year term, two (2) to serve a three (3) year term and two (2) persons to serve a four (4) year term. If a member appointed under this Subsection shall, during his term of office, permanently depart from the Island, resign or otherwise be unable to fulfill the responsibilities of the position, *I Maga'lahen Guahan* shall appoint a new member to fill the unexpired term in the same manner as prescribed for appointment to a new term. All members of the Board shall serve for the term specified or until their successors are appointed and qualified.

SOURCE: GC § 61004. Amended by P.L. 25-036:1 (June 7, 1999).

§ 3106. Duties of the Board.

All functions and powers of the Corporation shall be vested in and be exercised by and under the direction of the Board of Trustees, which shall be composed of seven (7) members as specified § 3105, above. The Governor shall appoint one (1) member to be chairman.

SOURCE: GC § 61005.

§ 3107. Station Manager of the Facility.

Subject to the advice and consent of the Legislature, the Governor of Guam, upon the recommendation of the Board, shall appoint a Station Manager of the facility who shall be responsible to the Board for the day-to-day operation of the Corporation and shall administer its programs, policies and the facility used for and in the production and transmission of the Corporation's programs. The Station Manager shall serve a fixed term as specified by the Board, or until his successor has been appointed and qualified. The Board shall fix policy and procedure applicable if the Station Manager is unable, for any reason, to complete his term. The Station Manager shall not participate in any decision of the Board relative to the fixing of

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his term, his salary nor on any matter affecting his tenure in office, nor shall he vote thereon.

SOURCE: GC § 61006, as amended by P.L. 13-093:1 (Nov. 14, 1975).

§ 3108. Salary and Expenses.

The Station Manager shall be paid a salary and such other allowances and emoluments as the Board may approve. The salaries of the other employees of the Corporation shall be determined by the Board upon the recommendation of the Station Manager in accordance with the provisions of 4 GCA Chapter 4.

SOURCE: GC § 61007, as amended by P.L. 13-093:2 (Nov. 14, 1975).

§ 3109. Qualifications of Trustees.

The Board members appointed from the general public shall be U.S. citizens, and who have resided on Guam for at least six (6) months immediately preceding their appointment, who have demonstrated their interest in public television, and who have no direct or indirect interest in commercial broadcasting on Guam.

SOURCE: GC § 61008.

§ 3110. Board, Miscellaneous Provisions.

(a) The Board shall be responsible for the management, administration, policies and direction of the Corporation and shall exercise supervision through the Station Manager.

(b) The Board shall meet in regular session at least once each month, commencing during the fourth month following the enactment of this Chapter, and in special session as often as it may deem necessary. Meetings of the Board shall be open, except for matters pertaining to the hiring and dismissal of any employee or Station Manager of the Corporation.

(c) A majority of the Board shall constitute a quorum for the transaction of business. The Board shall act by a vote of at least four (4) of its members.

(d) The Board members shall receive no salary for their services on the Board, provided, however, that they may be paid a reasonable per diem not to exceed Fifty Dollars (\$50) for attendance at meetings of the Board and reasonable travel allowance for time spent on official business of the Corporation,

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except that the Station Manager shall not be paid any sums under this clause.

SOURCE: GC § 61009, as amended by P.L. 13-093:3 (Nov. 14, 1975). Subsection (d) amended by P.L. 15-148:22 (Jan. 8, 1981).

2020 NOTE: P.L. 16-44:21 (Oct. 13, 1981)(Annual Appropriations Act for Fiscal Year 1982), prohibited the payment of per diem, stating: “No person who is a member of any board or commission within the Government of shall be compensated for service on such board or commission.” This prohibition was repealed by P.L. 16-115:11:6 (Oct. 7, 1982) (Annual Appropriations Act for Fiscal Year 1983).

§ 3111. Corporate Use of Funds.

The Corporation is authorized to use its funds, from whatever source derived, in the exercise of its corporate powers and functions.

SOURCE: GC § 61010.

§ 3112. Annual Reports and Audits.

The Corporation shall submit to the Governor and the Legislature a detailed annual report of activities and an audited annual financial report. For this purpose, it shall also submit to the Governor and the Legislature, such other special reports as they may require from time to time. The Corporation’s books shall likewise be subject to annual legislative audit as prescribed by law.

SOURCE: GC § 61011.

§ 3113. Office of Attorney General: Legal Counsel.

The Corporation shall utilize the Office of the Attorney General as its legal counsel, unless the Attorney General, in writing, authorizes the Corporation to utilize private counsel.

SOURCE: GC § 61012.

§ 3114. Guam Education Telecommunications Facility.

(a) The facility shall consist of the production and broadcasting equipment necessary to artistically produce and project television programs. It shall be staffed by responsible professional and technical employees whose combined efforts will result in meaningful and entertaining television fare.

(b) The facility shall be organized under the Station Manager.

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(c) It shall consistently strive to stay abreast of the state of the art and maintain the highest possible levels of programming, concept design and production. It shall study and recommend to the Corporation such expansion, modification, extension or other change necessary to serve its stated goals and to best serve the needs of all of the people of Guam.

SOURCE: GC § 61013 GC, as amended by P.L. 13-093:4 (Nov. 14, 1975).

§ 3115. Property Transfer.

All property, facilities, equipment, supplies, records and file exclusively used, issued or pertaining to the television production section of the Learning Resources Center of the Department of Education or of the University of Guam and which are now installed or contemplated at the Learning Resources Center or at the University of Guam and relate to the design and function of the facility are hereby transferred to the Corporation for its use. The facility shall maintain and operate such equipment, in conjunction with its own or similarly acquired equipment as directed by the Corporation to serve the educational telecommunications needs of the Department of Education, the University of Guam and the general public. The funding for services provided the Department of Education and the University of Guam shall be provided by the Legislature.

SOURCE: GC § 61014.

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. References to Guam Public School System have been changed to Department of Education pursuant to P.L. 30-050:3.

§ 3116. Use and Design of the Facility.

The facility, under the Station Manager, shall be responsible for carrying out the purposes of the Corporation as provided by law and as directed by the Board of Trustees. The Station Manager shall establish such divisions as he deems necessary for the proper operation of the facility, including but not limited to Administration, Programming, Production and Engineering. Each division shall undertake the tasks and functions assigned to it by the Station Manager.

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SOURCE: GC § 61015, as amended by P.L. 13-093:5 (Nov. 14, 1975).

§ 3117. Employees.

(a) The Station Manager shall establish, after approval of the Board, the conditions of entry to, maintenance in and dismissal from employment in the Corporation not in conflict with the provisions of the Director of Administration. Employees shall be provided Workmen's Compensation coverage, Health Insurance and shall be members of the Guam Retirement Fund, provided, that contract employees shall not be members of the Guam Retirement Fund.

(b) The Station Manager shall be responsible for recruitment of all employees of the Corporation.

SOURCE: GC § 61016, as amended by P.L. 13-093:6 (Nov. 14, 1974). Amended by P.L. 28-068:IV:42 and 47 (Sept. 30, 2005), effective January 1, 2006; reference to Civil Service Commission changed to Director of Administration.

§ 3118. Effective Date.

(a) This Chapter shall become effective July 1, 1975. Within three (3) months after the enactment of this Chapter, the Governor shall make the required appointments of Board members, and an orderly transition shall be commenced to transfer the facility, Television Station KGTF, and personnel from the present organization under Executive Order No. 70-6, dated March 24, 1970, to that established by this Chapter.

(b) The Governor and the Corporation shall take all steps necessary to transfer the Federal Communications Commission license for Station KGTF from the present holder to the Corporation.

(c) All employees working exclusively in areas which will become the responsibility of the Corporation upon its establishment shall be transferred to the Corporation without loss of pay or benefits, and shall remain with the Corporation for a period of not less than six (6) months, unless the Corporation determines that removal is necessary for acts or omissions during their tenure with the Corporation.

(d) Upon assumption by the Corporation of the full duties transferred to it by the present management of Station KGTF by

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this Chapter, all prior memoranda, Executive Orders and Director's orders which are in conflict with this Chapter are hereby superseded and repealed.

SOURCE: GC § 61017.

ARTICLE 2
GUAM FILM OFFICE

SOURCE: Added by P.L. 35-048:4 (Nov. 12, 2019).

2020 NOTE: Originally added by P.L. 31-159:1 (Jan. 4, 2012) as Article 4 of Title 12, Chapter 50 (effective 180 days after date of enactment). P.L. 35-048 (Nov. 12, 2019) repealed the article and stated that “[a]ny property and assets of the Guam Film Office which is held by the Guam Economic Development Authority shall be transferred immediately to the Guam Educational Telecommunications Corp.”P.L. 35-048:4.

- § 3201. Definitions.
- § 3202. Guam Film Office.
- § 3203. Rules and Regulations.
- § 3204. Powers and Duties.
- § 3205. Guam Film Office Fund.
- § 3206. Permits Required.
- § 3207. General Exemptions.
- § 3208. Local Production Companies Exempt.
- § 3209. Applicants and Issuance.
- § 3210. Indemnification of Government Against Liability.
- § 3211. Insurance and Bonding Required.
- § 3212. Effective Date.
- § 3213. Severability.

§ 3201. Definitions.

(a) *Administrator* means the Administrator of the Guam Film Office, who *shall* be the Station Manager of the Guam Educational Telecommunications Corporation or his/her designee.

(b) *Board* means the Guam Educational Telecommunications Corporation Board of Trustees.

(c) *Charitable* or *student films* means commercials, motion pictures, television, videotapes, or still photography produced by

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a nonprofit organization that is registered with the Guam Department of Revenue and Taxation or the Internal Revenue Service as a charitable organization, or is produced by students of an educational institution, and for which no person, directly or indirectly, shall receive a profit from the marketing and production of the film or from showing the films, tapes, or photos.

(d) *Commercial films* means and includes all activity attendant to filming any entertainment or advertising programs for any media now known or hereafter created.

(e) *Committee* means an Advisory Committee established by the Station Manager.

(f) *Contractors' Registry* means a list of all Guam licensed businesses, and their contact information, who provide services to companies engaged in the film industry.

(g) *Corporation* means the Guam Educational Telecommunications Corporation.

(h) *Filming/production* means and includes all activity attendant to staging or shooting commercial motion pictures, television shows or programs, and commercial still photography, videotapes, computer-based programs, or other visual reproduction technology now known or hereafter created. The period of filming includes the set-up, strike, and time of photography.

(i) *Government* means the government of Guam, its authorized agents, officers, representatives, and employees of departments, agencies, autonomous agencies, offices, or instrumentalities.

(j) *News media* means the photographing, filming or videotaping for the purpose of spontaneous, unplanned television news broadcasts, or reporting for print media by journalists, reporters, photographers, or camera operators.

(k) *Person* means an individual or business.

(l) *Private property* means any property *not* owned by the government of Guam on which filming would *not* interfere with the public's right-of-way, access, or safety.

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(m) *Station Manager* means a person appointed in accordance with § 3107 of this Chapter.

(n) *Studio* means a fixed place of business where filming activities (motion or still photography) are regularly conducted upon the premises.

§ 3202. Guam Film Office.

There is hereby established the Guam Film Office as a division within the Guam Educational Telecommunications Corporation. The Station Manager of the Corporation *shall* be responsible for the administration of the Guam Film Office and serve as the fiduciary to the Corporation. The Station Manager *shall* submit a strategic plan to the Board for approval *no later than* thirty (30) days after the adoption of rules and regulations. The plan *shall* be updated every three (3) years.

§ 3203. Rules and Regulations.

(a) Rules and Regulations. The Station Manager *shall* establish an Advisory Committee that is responsible for the promulgation of rules, regulations, and fees to govern the form, time, and location of filming activity set forth within Guam. The composition of the Advisory Committee *shall* be as follows:

(1) no less than three (3) individuals and representatives of non-governmental organizations that have substantial experience in the film, video, and media fields;

(2) one (1) member shall be *I Ge'helo'* (the Chair) or a designated alternate from *I Kumision I Fino' CHamoru yan I Fina'ná'guen I Historia yan I Lina'la' I Taotao Tâno*;

(3) one (1) member *shall* be the Guam Historic Preservation Officer or his/her designee;

(4) one (1) member *shall* be from the Guam Visitors Bureau; and

(5) one (1) member *shall* be from the Guam Economic Development Authority.

(b) The Committee *shall* allow for the full participation of any member of the public during its deliberations.

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(c) The rules and regulations *shall* also provide for the issuance of permits, notification of permit denial, and a process of appeal.

(d) The rules and regulations may also include requirements for non-local production companies to provide local apprenticeships within the film industry during the course of film production on Guam.

(e) The rules, regulations, and fees *shall* be adopted by the Board of the Guam Educational Telecommunications Corporation and comply with the provisions of the Administrative Adjudication Law, 5 GCA Chapter 9, within ninety (90) days upon the enactment of this Article.

(f) The rules and regulations *shall* be based upon the following criteria:

- (1) the health and safety of all persons;
 - (2) avoidance of undue disruption of all persons within the affected area;
 - (3) the safety of property in Guam;
 - (4) traffic congestion at particular locations in Guam;
- and
- (5) to foster to the maximum extent possible, the accuracy or appropriateness of the presentation, interpretation, and/or usage of tangible and intangible aspects of the *CHamoru* culture and heritage that may be practicable in the production of films, videos, audio recordings, music recordings, computer-generated imagery and other media-related products.

2019 NOTE: Subsection designations altered/added pursuant to authority granted by 1 GCA § 1606.

§ 3204. Powers and Duties.

The Guam Film Office *shall* have the following powers and duties:

- (a) to promote, encourage and advertise the use of Guam facilities and services for the production of films, videos, television programs, audio recordings, music

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recordings, computer-generated imagery and other media-related products;

(b) to provide support services to visiting and local production companies, including assistance to film, video, audio, and media producers in securing necessary permits or permissions from government of Guam authorized agents, officers, representatives and employees of departments, agencies, autonomous agencies, offices or instrumentalities;

(c) to develop and update annually a resource guide of viable filming locations in Guam, available video and media production facilities, permitting requirements, and tax incentives;

(d) to work in coordination with the Guam Visitors Bureau to conduct and attend trade shows and production workshops to promote Guam to the national and international film industries;

(e) to promote and attract business activities in film, video, computer-generated and other media production activity in Guam, and take any other administrative action which may improve Guam's film, video and media production industries in national and international markets;

(f) to work in coordination with *I Kumision I Fino' CHamoru yan I Fina'nâ'guen I Historia yan I Lina'la' I Taotao Tâno* to ensure, to the maximum extent possible, the accuracy or appropriateness of the presentation, interpretation, and usage of tangible and intangible aspects of the *CHamoru* culture and heritage in the production of films, videos, audio recordings, music recordings, computer-generated imagery and other media-related products;

(g) to accept any funds, gifts, donations, bequests or grants of funds from private, federal, and public sources for the purposes of this Article;

(h) to create a "one stop permitting" process for the film industry by formulating and proposing rules and regulations for standardized permits which *shall* be used by the government of Guam, its authorized agents, officers, representatives and

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employees of departments, agencies, autonomous agencies, offices, or instrumentalities, in accordance with the requirements set forth in this Article;

(i) to work in coordination with the Guam Historic Preservation Officer to ensure the integrity of historic and cultural sites;

(j) to require at its discretion, non-local production companies to provide local apprenticeships within the film industry during the course of film production on Guam. Such requirements may take into account the size of the production and other factors the Guam Film Office deems appropriate; and

(k) to establish a Contractors' Registry, which *shall* be provided to all potential film companies upon written request and made available via the Guam Film Office's website.

§ 3205. Guam Film Office Fund.

(a) There is established a Fund to be known as the Guam Film Office Fund, which *shall* be administered by the Board for the Guam Film Office and be maintained separate and apart from any other funds of the government of Guam, including the General Fund.

(b) Independent records and accounts *shall* be maintained in connection therewith. All proceeds deposited in the Guam Film Office Fund *shall* be appropriated to the Corporation for the administration, equipment, operations, the development of facilities, and for other purposes necessary to carry out this Article.

(c) All funds collected from fees, charges, or fines levied pursuant to this Article *shall* be deposited in the Guam Film Office Fund, and all interest earned by the Guam Film Office Fund shall accrue.

(d) Any unencumbered funds remaining in the Guam Film Office Fund at the end of each fiscal year *shall* remain in the Fund.

(e) The Guam Film Office Fund *shall* be subject to audits by the Office of Public Accountability.

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2020 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

§ 3206. Permits Required.

(a) Permit Required. No person shall use any government street, alley, sidewalk, park, pier, way, or other public property owned or controlled by the government of Guam for the purpose of making commercial films without first applying for and receiving a permit from the Guam Film Office Administrator or his/her designee; provided, that the provisions of this Article *shall not* apply to or be construed to affect (1) news media; and (2) filming solely for private/family use.

(b) No person shall use any private property for the purpose of making commercial films without first applying for and receiving a permit from the Guam Film Office Administrator or his/her designee. Notwithstanding the foregoing, the provisions of this Article *shall not* apply to or be construed to affect the following filming on private property:

- (1) filming which requires *no* parking variances and uses *no* public property or rights-of-way on public property;
- (2) filming which *does not* impair the quiet enjoyment of the surrounding properties;
- (3) filming which *does not* involve the use of any pyrotechnic devices;
- (4) a licensed business which regularly employs a licensed pyrotechnic operator;
- (5) filming by news media;
- (6) filming solely for private/family use; or
- (7) filming which *does not* interfere with the public's use of government property.

(c) *Except* as provided herein, each applicant must comply with all local and federal laws and regulations and must obtain all necessary permits and licenses as a precondition for the commencement of commercial film production hereunder. Thereafter, the permittee *shall* remain in full compliance with all

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local and federal laws, regulations, permits and licenses throughout the filming.

(d) Upon reasonable notice by the applicant, the Administrator or his/her designee is authorized, upon showing of good cause, to change the conditions under which a permit has been issued; provided, that the requirements of this Article are met and the government of Guam department, agency, autonomous agency, office or instrumentality can undertake all necessary administrative review within the time requested.

§ 3207. General Exemptions.

The provisions of this Article *shall not* apply to or affect:

(a) Guam Educational Telecommunications Corporation and companies providing services or partnering on station projects.

(b) News Media. Reporters, photographers, or camera operators in the employ of a newspaper, news service, or similar entity, engaged in the on-the-spot broadcasting of news events concerning those persons, scenes or occurrences which are in the news and of general public interest, including sporting events.

(c) Private/Family Use. The filming or videotaping of motion pictures solely for private/family use.

(d) Charitable Films and Student Films. Projects produced by a nonprofit organization that is registered with the Guam Department of Revenue and Taxation or the Internal Revenue Service as a charitable organization or produced by a student(s) of an educational institution.

(e) Small Crews. If the crew *does not* exceed four (4) persons and there is no extensive use of props, equipment, cast or other participants, the small crew shall be exempt if the following conditions are met:

(1) the crew is filming a parade, demonstration or other special event, and has obtained all permission that may be required. The exemption *shall* allow them to operate on the same basis as a citizen with a camera;

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(2) pedestrian and vehicular traffic is *not* altered;

(3) no special parking provisions are included;

(4) no stunt work is performed;

(5) permission is obtained from controlling authorities to use government of Guam property, other than sidewalks and streets;

(6) permission is obtained from owners to use private property where applicable; and

(7) the production company or film crew ensures, to the maximum extent possible, the accuracy or appropriateness of the presentation, interpretation, and usage of tangible and intangible aspects of the *CHamoru* culture and heritage as may be practicable in the production of films, videos, audio recordings, music recordings, computer-generated imagery and other media-related products.

§ 3208. Local Production Companies Exempt.

In addition to the General Exemptions authorized in § 3207 of this Article, the provisions of this Article and the rules, regulations, and requirements authorized herein *shall not* apply to or affect local production companies if:

(a) the production company was incorporated in Guam;

(b) the principal owner(s) is a resident of Guam and has filed individual tax returns in Guam for a period of at least three (3) years;

(c) the production company maintains its headquarters in Guam;

(d) the production company is licensed to do business in Guam;

(e) the daily operations of the production company are managed by a resident of Guam; and

(f) the production company ensures, to the maximum extent possible, the accuracy or appropriateness of the

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presentation, interpretation, and usage of tangible and intangible aspects of the *CHamoru* culture and heritage as may be practicable in the production of films, videos, audio recordings, music recordings, computer-generated imagery and other media-related products.

§ 3209. Applicants and Issuance.

(a) Issuing Authority. The issuing authority *shall* be the Guam Film Office Administrator.

(b) Applications. Each application for filming under this Article must be completed in full and filed with the Administrator or his/her designee.

(c) The permit application *shall* be in a form the Administrator or his/her designee may reasonably require. In lieu of the foregoing, the applicant may submit the permit application on the form adopted and in use by the Guam Film Office.

(d) The Administrator or his/her designee may refer the application to such appropriate government department, agency, autonomous agency, office or instrumentality as are directly impacted by the application, and as he/she deems necessary from the nature of the application for review, evaluation, investigation, and recommendations by the department, agency, autonomous agency, office or instrumentality regarding approval or disapproval of the application.

(e) The Administrator or his/her designee *shall* issue a permit under this Article if it is determined that the following criteria have been met:

(1) the proposed use will *not* unreasonably interfere with or endanger the public peace or rights of nearby residents to the quiet, peaceful enjoyment of their property, or otherwise be detrimental to the public peace, health, safety or general welfare;

(2) the proposed use will *not* unduly impede, obstruct or interfere with the operation of emergency vehicles or equipment in or through the permit area, or adversely affect the government's ability to perform municipal functions or

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furnish government services in the vicinity of the permitted area; and

(3) the proposed use will *not* constitute a fire or safety hazard and all proper safety precautions will be taken as is reasonably necessary to protect the public peace, health, safety or general welfare.

(f) The Administrator or his/her designee *shall* deny the permit if the conditions of this Article and all applicable laws and regulations have not been met or if the application contains incomplete or false information. No permit shall be denied without a clear written explanation of the reasons compelling a denial and the process by which said denial may be appealed.

(g) The Administrator or his/her designee may immediately revoke or suspend a permit which has been granted if the conditions of this Article and all applicable laws and regulations are no longer being met, or if the information supplied by the applicant becomes, or is determined to be, false or incomplete, or if any substantial change in circumstances results in the proposed use becoming detrimental to the public peace, health, safety or general welfare.

(h) The Administrator or his/her designee *shall* conduct production site inspections, monitoring, and enforcement of this Article.

(i) Reimbursement for Personnel. The production company *shall* reimburse the relevant government of Guam agency for any personnel provided to the company (i.e. police, fire, traffic control, medical personnel) for the purpose of assisting the production. Any cost *shall* be negotiated, and approved, prior to the shoot date. A fee for issuance of the permit *shall* be set by the Advisory Committee.

§ 3210. Indemnification of Government Against Liability.

Prior to and as a condition precedent to the granting of a permit under this Article, each applicant *shall* agree to indemnify, defend and hold the government of Guam, its authorized agents, officers, representatives and employees harmless from and against any and all losses, damages, claims, causes of action, costs, liabilities, penalties, judgments and

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expenses, including without limitation, defense costs and reasonable legal fees, resulting from any and all claims or damage of any nature, including any accident, loss or damage to persons or property which the government may incur and which arise from or relate to any activity conducted by the permittee or any of its agents, employees, representatives, contractors or consultants in connection with the rights granted in the permit or under this Article. The form of the indemnification agreement *shall* be as determined by the Attorney General of Guam.

§ 3211. Insurance and Bonding Required.

(a) Liability Insurance. As a condition of the issuance of a permit hereunder, every permittee must procure and maintain in full force and effect during the term of the permit a policy (or policies) of insurance from an insurance company licensed to do business in Guam, naming the government of Guam, its officers, employees and agents as coinsured for protection against claims of third persons for any and all liability of permittee with respect to its obligations and liabilities under its permit and this Article, and its indemnities, including, but *not* limited to, commercial general liability insurance on an “occurrence” basis against claims for personal injury, including death, bodily injury or property damage liability, and in an amount *no less* than One Million Dollars (\$1,000,000), or which otherwise provides sufficient coverage that the Administrator or his/her designee determines to be necessary and adequate under the circumstances.

(1) The certificate of insurance *shall not* be subject to cancellation or modification until after thirty (30) days’ written notice to the Guam Film Office. Prior to the issuance of any permit, a copy of the certificate of insurance *shall* be provided to the Insurance Commissioner.

(2) A copy of the certificate will remain on permanent file.

(b) Worker’s Compensation Insurance. An applicant *shall* conform to all applicable federal and local requirements for worker’s compensation insurance for all persons operating under a permit.

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(c) Hold Harmless Agreement. An applicant *shall* execute a hold harmless agreement as provided by the government of Guam and incorporated within the permit issued under this Article.

(d) Faithful Performance Bond. To ensure cleanup and restoration of any public property involved in the filming, the permittee may be required to post a refundable faithful performance bond (amount to be determined by the rules and regulations), cash surety or other comparable form of security guarantee at the time the application is submitted. Upon completion of filming, cleanup and restoration, and a satisfactory inspection of the site by the Guam Film Office Administrator or his/her designee, the bond may be returned to the applicant.

2020 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

§ 3212. Effective Date.

This Article *shall* be effective one hundred eighty (180) days after the date of enactment.

§ 3213. Severability.

If any provision of this Article or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity *shall not* affect other provisions or applications of this Article that can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable.
