

CHAPTER 21
INVESTMENTS AND DEPOSITS

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§ 21101. Available Investment Money: Determination.

The Director of Administration shall at such times as he deems necessary determine, in accordance with the provisions of this Chapter, whether any portion of the money in the General Fund of the Treasury of Guam is not necessary for the immediate use of the government of Guam, and the amount thereof.

SOURCE: GC § 6300.

§ 21102. Designation of Available Money.

The Governor of Guam may, from time to time, designate as available investment money those accounts which the Director of Administration shall determine are not necessary for immediate use.

SOURCE: GC § 6301.

§ 21103. Method of Determining Money.

Any money in the General Fund or Special Funds of the Treasury of Guam in excess of 120% of the average monthly disbursements made from the General Fund for the 12-month period immediately preceding may be declared available investment money. Money not in excess of the above percentage shall be deemed necessary for immediate use and may not be declared available investment money.

SOURCE: GC § 6302.

§ 21104. Investment of Available Money.

The Director of Administration, with the written approval of the Governor, may invest such available investment money, as defined in this Chapter, in United States bonds, United States interest-bearing notes, or other United States obligations, and to the extent to which such shares or investment certificates are insured by the Federal Savings and Loan Insurance Corporation, in shares or investment certificates of any savings and loan association organized under the laws of Guam which is an insured institution as defined in Title IV of the National Housing Act and which has been approved by the Director of Administration.

SOURCE: GC § 6303.

§ 21105. Sale or Exchange of Securities.

Securities purchased or held under the provisions of this Chapter may be sold or exchanged for other securities and the money received from any security sale may be reinvested as provided herein for investments; provided, however, it shall be the duty of the Director of Administration to see that moneys invested, or allowed to be invested, under the provisions of this Chapter are at all times handled to the best interests of the government of Guam.

SOURCE: GC § 6304.

§ 21106. Sale At or Above Market Price.

No sale or exchange of securities held under the provisions of this Chapter shall be made at a price less than the market price of the securities to be sold or exchanged.

SOURCE: GC § 6305.

§ 21107. Income to General Fund.

Interest, premiums, and income in any form derived from any securities purchased, held or sold under this Chapter shall be credited to the General Fund of the Treasury of Guam.

SOURCE: GC § 6306.

§ 21108. Effect of Future Disbursements.

Any money declared to be available under the provisions of this Chapter shall remain such and be available for investment any time within 60 days thereafter, and may be held invested, even though subsequent disbursements from the General Fund may reduce the non-invested General Fund below the minimum set in § 21103 of this Chapter.

SOURCE: GC § 6307.

NOTE: GC § 6308 as repealed/reenacted by P.L. 15-66:VI:4, repealed by P.L. 17-24:9.

§ 21109. Reimbursement of Federal Loans.

In accordance with [United States] P.L. 88-170, as amended, providing for the rehabilitation of Guam, the government of Guam is authorized to make certain loans from the Federal Government. Pursuant to the provisions of said Act, the government of Guam has made, and will in the future make, certain loans from the Federal Government. Under the terms of said Act, the Secretary of the Treasury shall withhold from sums collected, pursuant to 30 of the Organic Act of Guam, such amounts, with interest at a rate to be determined by the Secretary of the Treasury, as the Secretary of the Interior estimates will reimburse the United States over a period of 30 years beginning June 30, 1968, with respect to sums transferred on or prior to that date, and over a period of 30 years from the date of each such transfer with respect to sums transferred after that date. Since taxes and other income covered into the treasury of Guam under 30 of the Organic Act become part of the General Fund, there is hereby authorized to be appropriated from any available funds in the Unappropriated Surplus of the General Fund such sums as are necessary to reimburse the Federal government for loans plus interest heretofore and hereafter made under the provisions of Public Law 88-170, as amended.

SOURCE: GC § 6308.1 added by P.L. 10-9.

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COMMENT: Public Law (U.S.) 96-205 (1980) deleted the requirement for the payment of interest. Later federal law forgave the entire outstanding principal, thus rendering this section obsolete.

§ 21110. Money of General & Special Funds Defined.

Money of the General Fund as used in this Chapter shall mean and include those monies of the General Fund of the Treasury of Guam which have not been disbursed, though they may have been appropriated or committed in any other manner. Money of a Special Fund as used in this Chapter shall mean and include those monies of any Special Fund of the government which have not been disbursed, though they may have been appropriated or committed in any other manner.

SOURCE: GC § 6309.

§ 21111. Deposit.

(a) The Director of Administration may direct that any monies belonging to, and under the control of, the government of Guam, in the hands of the Treasurer shall be deposited to the credit of the government in eligible banks. Any sum so deposited is deemed to be in the Treasury of Guam.

(b) Policy. It is the policy of the government of Guam that government funds shall be deposited in eligible banks in proration as those eligible banks meet the long-term capital credit needs of the Territory. Capital credit is defined to include loans made for equity investments, purchase of real estate and other loans repayable in not less than five years.

(c) Rules & Regulations. The Governor may make rules and regulations which shall be promulgated by Executive Order to implement the provisions of this Section.

SOURCE: GC § 6310 repealed and added by P.L. 9-237 (Aug. 13, 1968). Subsection (b) repealed and reenacted by P.L. 24-310:9 (Dec. 21, 1998). Subsection (b) as reenacted by P.L. 24-310:9 was removed and replaced with the original version added by P.L. 9-237 pursuant to *Bank of Guam v. Reidy*, 2001 Guam 14 ¶ 22.

2015 NOTE: In *Bank of Guam v. Reidy*, 2001 Guam 14 ¶ 22, the Supreme Court of Guam concluded that subsection (b) as reenacted by P.L. 24-310:9 was void, and that the provision originally added by P.L. 9-237 “remains in force.” The court held:

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[22] Further, when faced with a statute that contains contradictory legislative directives, a court cannot simply elect to give effect to one directive over the other in an effort to save the statute. Such would be an exercise in judicial legislation, which is clearly not the prerogative of the courts. See *Great Lakes Pipe Line Co.*, 396 P.2d at 300. Because the statute is void for ambiguity, there cannot be any duty in Reidy, or correlative right in BOG, flowing from the 1998 enactment. Further, because we hold that the 1998 enactment is void, the prior enactment and codification of subsection (b) remains in force. See *State ex rel. Clover Valley Lumber Co. v. Sixth Judicial Dist. Ct.* in and for *Pershing County*, 83 P.2d 1031, 1034 (Nev. 1938) (declaring valid and effective a prior enactment where its later amended version was found to be invalid); *Rosenfield v. Drake*, 170 A. 414, (Pa. Super. Ct. 1934) (holding that a statute that is held to be invalid does not act to repeal its predecessor unless the statute employs language showing an intent to repeal the earlier statute even if later found invalid); see also *Dewrell v. Kearly*, 32 So.2d 812, 814 (Ala. 1947). A reading of the prior law, enacted in 1968 and later codified as 5 GCA § 21111(b) (1993), reveals that the statute does not suffer from the contradictory language which resulted in our invalidation of the 1998 enactment. We find this predecessor version to be valid.

§ 21112. Banks Eligible to Receive Deposits.

As used in this Chapter, eligible bank shall mean any bank organized and operating under the National Banking Laws as a national bank and approved by the Director of Administration; any bank or territorial bank organized under the laws of any state or territory of the United States authorized and licensed to conduct the business of banking in Guam and approved by the Director of Administration; and any savings and loan association organized under the laws of Guam which is an insured institution as defined in Title IV of the National Housing Act and which has been approved by the Director of Administration.

SOURCE: GC § 6311 amended by P.L. 15-77:23.

§ 21113. Type of Deposits.

The Director of Administration shall determine what amounts of money shall be deposited as inactive deposits, and as active deposits.

SOURCE: GC § 6312.

§ 21114. Security of Deposits.

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Deposits or investment certificates insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation do not require further security. To be eligible to receive or retain other active or inactive deposits, an eligible bank shall place with, or to the accounts of, the government of Guam, as security for such deposits, securities of a type herein below specified, and approved by the Director of Administration, in an amount in value at least ten percent in excess of the amount of monies deposited with the bank:

- (a) Treasury notes or bonds of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and in interest;
- (b) Any evidence of indebtedness of the government of Guam;
- (c) Investment certificates of the Federal Home Loan Bank;
- (d) Such other securities as may be hereafter approved by the Director of Administration and the Governor of Guam.

SOURCE: GC § 6313 amended by P.L. 13-104:1.

§ 21115. Officials Not Responsible for Deposited Money.

The Director of Administration, the Treasurer of Guam, or any other official of the government of Guam, shall not be responsible for any money deposited in any bank pursuant to this Chapter, and while it remains so deposited.

SOURCE: GC § 6314.

§ 21116. Unclaimed or Unpaid Checks.

(a) Upon audit caused by the Director of Administration, the amounts of all government of Guam checks or drafts which shall have been unclaimed or outstanding for more than one year from the respective dates thereof, shall be accounted for separately and a record made of each such check or draft.

(b) All such unclaimed checks or drafts shall be cancelled as of the date of the audit. Upon demand by the lawful claimant thereof within three years after such cancellation, the Director of Administration shall issue a new check or draft in lieu thereof.

(c) Upon presentation of any such outstanding check or draft within three years of the date of audit thereof to the Director of Administration

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by the lawful holder thereof, the Director shall cancel the check or draft so presented and issue a new check or draft in lieu thereof.

(d) The amounts of all checks or drafts which shall have been unclaimed or outstanding for more than three years from the date of audit shall be paid into the Treasury as revenue of the General Fund.

(e) Publishing Unclaimed Tax Refund Checks. Within ninety (90) days of the enactment of this Subsection, the Department shall create and enact a policy establishing guidelines for the reporting and publishing of unclaimed tax refund checks. The publishing of unclaimed tax refund checks shall be made in a publication of general circulation and shall be posted on the official Department website within six (6) months after each annual tax filing deadline. Such unclaimed tax refund check postings on the official Department website shall be updated not less than semi-annually.

Information to be included in each publication and posting shall contain:

- (1) taxpayer name;
- (2) address; and
- (3) date to claim check.

(f) Notwithstanding any other provision of law or this Section, any and all unclaimed or outstanding government of Guam checks or drafts specific to the payment of income tax refunds may be demanded by the lawful claimant thereof within ten (10) years after cancellation, and the funds from such unclaimed or outstanding checks or drafts which shall have been unclaimed or outstanding for more than ten (10) years from the date of the audit, shall be deposited into the Income Tax Refund Efficient Payment Trust Fund (Trust Fund), established pursuant to Chapter 51 of Title 11 GCA, and shall be administered pursuant to § 51102, Chapter 51, Title 11 GCA. Such deposits to the Trust Fund herein shall be considered separate and apart from any required deposits in Chapters 50 and 51, Title 11 GCA; and shall not be credited toward any required deposits in Chapters 50 and 51 of Title 11 GCA.

SOURCE: GC § 6315. Subsections (e) and (f) added by P.L. 32-234:3 (Jan. 2, 2015).

§ 21117. Acceptance of Grants, Grants-In-Aids, Contributions and Valuable Property.

The officials or employees of the government of Guam shall be held personally responsible and accountable for any monies, grants, grants-in-aid, assistance-in-kind or any valuable property received or accepted from any grantee, donor or contributor, public or private, without specific statutory authorization for the acceptance of such monies, grants, grants-in-aid, assistance or valuable property on behalf of the government of Guam, and the government of Guam shall not be held liable for any use, conversion, damage, deterioration of value or mismanagement of such monies, grants, grants-in-aid, assistance or valuable property.

SOURCE: GC § 6316 added by P.L. 13-37:VI:41.

§ 21118. Unauthorized Programs.

On or before July 1, 1975, each department, agency and instrumentality of the government of Guam which operates or manages any program or supervises any agency of the Government without statutory authorization, shall report the same to the Legislature and to the Governor of Guam, and on or before August 1, 1975, shall submit to the Legislature a complete list of such programs and agencies together with drafts of measures for enactment of the legislation for the authorization of such programs and agencies. Any program or agency not authorized by law and not submitted to the Governor pursuant to this Section of the Government Code, shall be discontinued or shall cease its operation by September 1, 1975, and any Certifying Officer who certifies public funds directly or indirectly for the continuance of any such program or agency shall be personally responsible and accountable for such disbursements.

SOURCE: GC § 6317 added by P.L. 13-37:VI:42.

§ 21119. Membership in the Retirement Fund for Employees Working in Unauthorized Programs or Agencies of the Government.

After September 1, 1975, no employee of any department, agency or instrumentality of the government of Guam who receives his salary in whole or in part from any program or from any department, agency or instrumentality of the Government not authorized by law, shall receive any credit nor shall become a member of the retirement system of the government of Guam; and any Certifying Officer who certifies the disbursement of any public funds for contribution to the Retirement Fund of the government of Guam for the account of the employee or as contribution

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by the employer in connection with the operation of any such unauthorized program or agency, shall be held personally responsible and liable for the amount of any such disbursement.

SOURCE: GC § 6318 added by P.L. 13-37:VI:43.

§ 21120. Drivers Education Fund.

The Drivers Education fund is appropriated to the Department of Education for expenditure for safe driving instruction in the public schools.

SOURCE: GC § 6319 added by P.L. 16-111:II:19.

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.
