

7 GCA CIVIL PROCEDURE
CH. 6 JUDICIAL OFFICERS, JUSTICES AND JUDGES

CHAPTER 6
JUDICIAL OFFICERS, JUSTICES AND JUDGES

- § 6101. Tenure, Rejection or Retention in Office of a Justice or a Judge.
- § 6102. Certification of Names upon Declarations; Law Applicable to Elections.
- § 6103. Standards of Conduct Applicable to Justices and Judges.
- § 6104. Prohibition of Political Activity.
- § 6105. Grounds of Disqualification.
- § 6106. Duty to Disclose Disqualification.
- § 6107. Objection to Competency; Procedure.
- § 6108. Judges and Justices Pro Tempore.
- § 6109. Justice Sitting in Trial Court.
- § 6110. Law Practice Prohibited.
- § 6111. Membership in Retirement Fund.
- § 6112. Resignation, or Retirement for Reasons of Age.
- § 6113. Salary on Retirement for Disability or on Failure of Reappointment.
- § 6114. Membership in Government of Guam Retirement Fund.
- § 6115. Assignment of Retired Judge or Justice to Active Duty.
- § 6116. Powers upon Designation and Assignment.
- § 6117. Election of Retirement System.

§ 6101. Tenure, Rejection or Retention in Office of a Justice or a Judge.

(a) Each Justice of the Supreme Court shall hold office for a term ending the 31st day of January following the first general election held after the expiration of ten (10) years since his or her appointment or election to office.

(b) Each Judge of the Superior Court shall hold office for a term ending the 31st day of January following the first general election held after the expiration of seven (7) years since his or her appointment or election to office.

(c) (1) No less than sixty (60) days prior to the holding of the general election next preceding the expiration of his or her term of office, any Justice or Judge may file in the office of the Election Commission a declaration of candidacy for election to succeed himself or herself. If a declaration is not filed, the vacancy resulting from the

7 GCA CIVIL PROCEDURE
CH. 6 JUDICIAL OFFICERS, JUSTICES AND JUDGES

expiration of his or her term of office shall be filled by appointment pursuant to 3108 of this Title.

(2) If such a declaration is filed, the name of such Justice or Judge shall be submitted at said next general election on a non-partisan ballot along with any other Justices or Judges seeking retention at the same election, without party designation, reading:

‘Shall [Justice] [Judge] _____ (here insert the name of the Justice or Judge) of the [Supreme Court] [Superior Court] be retained in office? Yes No (Mark your preference).’

(3) If a majority of those voting on the question vote against retaining him or her in office, upon expiration of his or her term of office, a vacancy shall exist which shall be filled by an initial appointment as provided in this Title; otherwise, said Justice or Judge shall, unless removed for cause, be retained in office for a term commencing upon the expiration of his or her existing term of office.

(4) The form of ballot for a Justice or Judge shall be determined as provided in Title 3 Guam Code Annotated, and shall meet the same criteria as other election ballots, including those for Voter Verified Paper Ballots.

SOURCE: CCP 91, amended by P.L. 14-2 (Jan. 22, 1977); codified into the Guam Code Annotated by P.L. 21-147 (Jan. 14, 1993); last paragraph, now (c)(4), repealed and added by P.L. 31-255:5 (Dec. 11, 2012).

2012 NOTE: Subsections (c)(1) through (c)(4) numbered by Compiler to harmoniously fit this section.

1985 COMMENT: This section has been changed to provide a longer term (for more stability) in the office of justice of the Supreme Court; and has been changed to reflect the retention of both justices and judges. A final paragraph has been added to permit the Election Commission to determine whether the ballot be paper, paper with electronic counting, or punch-card or other format, as permitted for other ballots under the Election Laws (3 GCA). The Election Commission is permitted to couple the judicial ballot with any other non-partisan ballot or ballots, as they may desire for ease in voting, or to simplify the election counting or for any other reason.

This section is also clarified to make clear that all of the judges seeking retention at any one election appear on the same ballot.

There has been discussion as to whether the prior Code of Civil Procedure permits the appointment of a new presiding judge of the Superior Court, or whether the retention of the presiding judge is a retention in office of presiding judge. This drafter believes that the wording means that the judge is retained in whatever office he holds at the time of the retention election.

§ 6102. Certification of Names Upon Declarations; Law Applicable to Elections.

Whenever a declaration of candidacy for election to succeed himself or herself is filed by any Justice or Judge under the provisions of this Chapter, the Election Commission shall, not less than thirty (30) days before the election, certify the name of said Justice or Judge and the judicial ballots required by this Chapter shall be prepared, printed, published, and distributed, and the election upon the question of such Justice or Judge remaining in office shall be conducted and the votes counted, canvassed, returned, certified and proclaimed by such public officials in such manner as is now provided by the Election Law.

1985 SOURCE: P.L. 12-189 modified to remove reference to the Supreme Court Justices.

§ 6103. Standards of Conduct Applicable to Justices and Judges.

In addition to the requirements of § 6104 and § 6105 of this Chapter, the standards of conduct prescribed by the American Bar Association's Canon of Judicial Ethics shall apply to and govern the conduct of the Justices of the Supreme Court of Guam and the Judges of the Superior Court of Guam.

This Canon of Judicial Ethics shall apply in addition to, and as may be modified by, any specific statute of Guam and violation of such standards will constitute grounds for possible removal or discipline of the Justice or Judge under the procedures and requirements of § 5104 of this Title.

1985 SOURCE: New section.

1985 COMMENT: Attorneys on Guam are governed by the ABA Code of Professional Responsibility [1992 - Rules of Professional Conduct]. There is no statute, law or published rule which applies any specific set of standards to the judges. This drafter believes that, since the ABA Canons are so widely accepted, and since the ABA Code of Professional Responsibility applies to attorneys, it is reasonable that the Canons of Judicial Ethics should apply to the judges. This Section is intended to give substance to the rather vague standards established in former § 94 CCP (§ 3103 of this Title).

§ 6104. Prohibition of Political Activity.

No Justice or Judge of any court shall directly or indirectly make any contribution to or hold any office in any political party or organization, or take part in any political campaign.

1985 SOURCE: CCP § 99 as amended by P.L. 11-95.

§ 6105. Grounds of Disqualification.

7 GCA CIVIL PROCEDURE
CH. 6 JUDICIAL OFFICERS, JUSTICES AND JUDGES

(a) Any Judge shall disqualify himself or herself in any proceeding in which his or her impartiality might reasonably be questioned, but if, following complete disclosure to all parties in the proceeding of the reasons for disqualification, all parties agree to having the Judge continue to sit in the proceedings, he or she need not disqualify himself or herself.

(b) A Judge shall also disqualify himself or herself in the following circumstances, but if, following complete disclosure to all parties in the proceeding of the reasons for his or her disqualification, all parties agree to having the Judge continue to sit in the proceedings, he or she need not disqualify himself or herself:

(1) Where he or she has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(2) Where in private practice he or she served as a lawyer in the matter in controversy, or a lawyer with whom he or she previously practiced law served during such association as a lawyer or either has been a material witness concerning the matter;

(3) Where he or she has served in governmental employment and in such capacity participated as counsel, advisor or material witness concerning the proceeding or, as such government employee, expressed an official opinion concerning the merits of the particular matter in controversy;

(4) Where he or she knows that he or she, individually or as a fiduciary, or his or her spouse or minor child residing in his or her household, has a financial interest in the subject matter in controversy or is a party to the subject matter in controversy or is a party to the proceeding, or in any other interest that could be substantially affected by the outcome of the proceeding;

(5) Where he or she or his or her spouse, or a person within the third degree of relationship to either of them, or the spouse of such person:

(A) is a party to the proceeding, or an officer, director, or trustee of a party;

(B) is acting as a lawyer in the proceeding;

(C) is known by the Judge to have an interest that could be substantially affected by the outcome of the proceeding;

7 GCA CIVIL PROCEDURE
CH. 6 JUDICIAL OFFICERS, JUSTICES AND JUDGES

(D) is to the Judge's knowledge likely to be a material witness in the proceeding.

(c) A Judge should inform himself or herself about his or her personal and fiduciary interests and that of his or her spouse and minor children residing in his or her household.

(d) For the purpose of this section the following words or phrases shall have the meanings indicated:

(1) *Proceeding* includes pre-trial, appellate review or other stage of litigation;

(2) The degree of relationship is calculated according to the civil law system;

(3) *Fiduciary* includes such relationships as executor, administrator, trustee and guardian;

(4) *Financial interest* means ownership of a legal or equitable interest, however small, or a relationship as a director, advisor or other active participant in the affairs of a party, except that:

(A) Ownership in a mutual or common investment fund that holds securities is not a *financial interest* in such securities unless the Judge participates in the management of the fund;

(B) An office in an educational, religious, charitable, fraternal or civil organization is not a *financial interest* in securities held by the organization;

(C) The proprietary interest of a policyholder in a mutual insurance company or a depository in a mutual savings association or a similar proprietary interest, is a *financial interest* in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

(D) Ownership of government securities is a *financial interest* in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

(5) *Judge* means any Justice of the Supreme Court or Judge of the Superior Court.

1985 SOURCE: 28 U.S.C. § 455, modified by removal of subsection (e) and affirmatively permitting a judge to sit on a case if the reasons for disqualification is disclosed to all parties and all agree to such judge continuing in the case. The U.S. Code contains a far more comprehensive law concerning the disqualification of judges than

7 GCA CIVIL PROCEDURE
CH. 6 JUDICIAL OFFICERS, JUSTICES AND JUDGES

does the Code of Civil Procedure of Guam. It seems desirable to adopt the U.S. law in this respect. Further, the latest version of the California Code of Civil Procedure is unsuitable as a guide to Guam because of its many amendments and references to courts which do not exist on Guam.

1985 COMMENT: It should be noted that this Section would disqualify a judge in a proceeding where this judge is a member of the Board of Directors of one of the parties, such as where the Public Defender Service Corporation appears as a party to the action, in contrast to where it appears as counsel to a party. Obviously, in this latter instance, the judge would not be disqualified. However, it seems that a judge should be disqualified in the former instance since he would have taken an active part in the proceedings of the body and, quite probably, in the proceedings which form a part of the dispute in question. Such disqualification is not clearly covered under § 170 of the Guam CCP.

Subsection (e) of the federal law is omitted here because some attorneys believe that no judge should be automatically disqualified for any of the reasons stated if full disclosure is made to all parties and all parties agree that the judge should continue. Such a situation has arisen and the judge continued to sit by agreement of all concerned. This procedure should be allowed to continue.

2012 NOTE: In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections beginning with “Lowercase Roman Numerals” to “Uppercase Letters” in this section.

§ 6106. Duty to Disclose Disqualification.

Whenever a Justice or Judge shall have knowledge of any fact or facts which, under the provisions of 6105 of this Chapter, disqualify him or her to sit or act as such in any action or proceeding pending before him or her, it shall be his or her duty to declare the same in open court and cause a memorandum thereof to be entered in the minutes. It shall be the duty of the clerk to transmit forthwith a copy of such memorandum to each party or his or her attorney who shall have appeared in such action or proceeding, except such parties as are presented in person or by attorney when the declaration is made.

1985 SOURCE: CCP § 171.

1985 COMMENT: The U.S. Code contains no equivalent section and leaves this to court rules. However, on Guam it seems best to retain this Section in law as it has been heretofore.

§ 6107. Objection to Competency; Procedure.

Whenever a Justice or Judge who shall be disqualified under the provisions of this Chapter to sit or act as such in any action or proceeding pending before him or her neglects or fails to declare his or her disqualification in the manner provided by this Chapter, any party to such action or proceeding who has appeared therein may present to the court and file with

7 GCA CIVIL PROCEDURE
CH. 6 JUDICIAL OFFICERS, JUSTICES AND JUDGES

the clerk a written statement objecting to the hearing of such matter or any trial of any issue of fact or law in such action or proceeding before such Justice or Judge, and setting forth the fact or facts constituting the ground of the disqualification of such Justice or Judge. Copies of such written statement shall forthwith be served by the presenting party on each party, or his or her attorney, who has appeared in the action or proceeding and on the Justice or Judge alleged in such statement to be disqualified.

Within ten (10) days after the service of such statement as above provided, or ten (10) days after the filing of any statement, whichever is later in time, the Justice or Judge alleged therein to be disqualified may file with the clerk his or her consent in writing that the action or proceeding continue without him or her, or may file with the clerk his or her written answer admitting or denying any or all of the allegations contained in such statement and setting forth any additional fact or facts material or relevant to the question of his or her disqualification. The clerk shall forthwith transmit a copy of the Justice's or Judge's consent or answer to each party or his or her attorney who shall have appeared in such action or proceeding. Every such statement and every answer shall be verified in the manner prescribed for the verification of pleadings. The statement of a party objecting to the Justice or Judge on the ground of his or her disqualification shall be presented at the earliest practicable opportunity after his or her appearance and discovery of the facts constituting the ground of the Justice's or Judge's disqualification, and in any event before the commencement of the hearing of any issue of fact in the action or proceeding before such Justice or Judge.

No Justice or Judge who shall deny his or her qualification shall hear or pass upon the question of his or her own disqualification, but in every case the question of the Justice's or Judge's disqualification shall be heard and determined by some other Judge. The Presiding Judge, or next senior Judge, if it is the Presiding Judge's disqualification that is being requested, shall make such assignment within five (5) days after receiving from the clerk the notice that the statement of disqualification has been filed. In the case of a Justice's disqualification, the matter shall be heard by the Supreme Court constituted without the questioned Justice.

If such Judge admits his or her disqualification, or files his or her written consent that the action or proceeding be tried before another Judge, or fails to file the answer within the ten (10) days allowed, or if it shall be determined after the hearing that he or she is disqualified, the action or proceeding shall be heard and determined by another Judge of the Superior Court who is not disqualified. Such other Judge shall be assigned in the

7 GCA CIVIL PROCEDURE
CH. 6 JUDICIAL OFFICERS, JUSTICES AND JUDGES

same manner as the Judge who was disqualified was assigned to hear the case initially.

If such Justice admits his or her disqualification, or files his or her written consent that the action or proceeding be tried without his or her participation, or fails to file the answer within the ten (10) days allowed, or if it shall be determined after hearing that he or she is disqualified, the action or proceeding shall be heard and determined by the Supreme Court with the participation of an Associate Justice *pro tempore*, appointed as provided in § 6108 of this Title.

1985 SOURCE: Portions of § 170, CCP of California.

1985 COMMENT: This drafter has heard many comments from attorneys who have objected to the procedure provided in the Guam CCP. Many attorneys have shown a preference for the California method of determining disqualifications. However, the California CCP, § 170, is adapted to the multiple-court system in California. Such a system cannot be transferred without change to Guam because of our unified, single court system. Therefore, this Section adopts those portions of California § 170 which deal with the procedure, but not substance of judicial disqualifications and they have been adapted to Guam.

Not included is an equivalent of California CCP § 170.6 - relative to disqualification for prejudice. Under this law, an attorney could, by filing an affidavit only, require that a judge recuse himself. After receiving comments on both sides of this question, this drafter believes that the foregoing sections provide adequate relief for judicial bias, prejudice and conflict of interest. To add the California law permitting automatic disqualification upon an affidavit of prejudice could, in practice, result in the Bar making *de facto* assignments of judges on the Court. The procedure provided here allows an unbiased review of disqualification, but does not permit automatic disqualification without the judge's having met specific grounds of disqualification.

§ 6108. Judges and Justices Pro Tempore.

(a) When there is no Judge qualified or available to hear a cause, action or hearing in the Superior Court, the Presiding Judge shall request the Chief Justice to appoint a Judge *pro tempore* to hear the matter. Such Judge *pro tempore* shall meet the same qualifications as a regularly appointed Judge of the Superior Court or be appointed in accordance with Guam law. When there is no Justice qualified or available to hear a cause, action, or hearing in the Supreme Court, the Chief Justice shall appoint a Justice *pro tempore* to participate in the matter. Such Justice *pro tempore* shall meet the same qualifications as a regularly appointed Justice of the Supreme Court or be appointed in accordance with Guam law.

(b) In order to provide for the orderly use of Judges or Justices *pro tempore* such Judge or Justice shall be appointed from among a list

7 GCA CIVIL PROCEDURE
CH. 6 JUDICIAL OFFICERS, JUSTICES AND JUDGES

maintained by the Chief Justice of qualified and available persons. To be qualified for appointment, such person shall be qualified as specified in this § 6108 of this Chapter. Judges or Justices *pro tempore* shall not be confirmed by the Legislature.

(c) The compensation of Judges or Justices *pro tempore* shall be determined by the Chief Justice at the time of their appointment, but shall not exceed the salary scale of Judges of the Superior Court or Justices of the Supreme Court, as the case may be.

(d) The procedure, after appointment, for assigning a Judge or Justice *pro tempore* and for limiting his or her term shall be the same as for the assignment of a retired Judge or Justice and the limitation of his or her term.

SOURCE: Subsection (a) amended by P.L. 24-135:2. Subsection (a) amended by P.L. 24-139:17. Amended by P.L. 27-31:18. No apparent change from the actual law as it was following the court decision, cited below.

COURT DECISIONS: The Supreme Court, in *Pangelinan v. Gutierrez*, 2000 Guam 11 (2000); affirmed by the Ninth Circuit as 276 F.3d 534 (1/10/2002), held P.L. 24-139 not to have existed at all as a public law because it was Apocket vetoed@ by the Governor. Therefore, this section reverts to the way it read in its last amendment, which was P.L. 24-135:2. The main difference is to place the power to appoint both Supreme and Superior Court justices and judges with the Chief Justice of the Supreme Court.

1985 SOURCE: California CCP § 170.8; modified.

1985 COMMENT: Recently, due to vacancies occurring on the bench and temporary absences of other judges, and the disqualification of all judges in one case, several judges *pro tempore* have been appointed despite the lack of any law authorizing the process. P.L. 12-85 gave the power of such appointment to the Chief Justice, but there has been no Chief Justice, and no amendment to the law, since then. It seems best to place the procedure and requirement for the appointment of judges *pro tempore* in law so that, when the requirement occurs, persons will be available.

In addition to the California section, this Section provides a method whereby a list of qualified persons can be maintained so that they can be immediately appointed for duty. The whole purpose of judges *pro tempore* is that they be available when no regular judge can serve, either because the regular judge is disqualified or because there is an overload in the cases, as when several judges are off-island at one time. Subsection (c) gives the judges *pro tempore* not more than the salary of a regular judge during the time they serve.

COMMENT: (1993) The Legislative has amended the law on judges *pro tempore* several times since 1985, with the procedure immediately prior to this Act being similar to what is provided here.

§ 6109. Justice Sitting in Trial Court.

[Repealed].

7 GCA CIVIL PROCEDURE
CH. 6 JUDICIAL OFFICERS, JUSTICES AND JUDGES

SOURCE: Repealed by P.L. 24-139:41. Repealed by P.L. 27-31:19.

COURT DECISIONS: The Supreme Court, in *Pangelinan v. Gutierrez*, 2000 Guam 11 (2000); affirmed by the Ninth Circuit as 276 F.3d 534 (1/10/2002), held P.L. 24-139 not to have existed at all as a public law because it was Apocket vetoed@ by the Governor. Therefore, this section reverts to the way it read upon its original enactment as there were no amendments prior to P.L. 24-139. The main difference is that the power of a Supreme Court Justice to sit on the superior Court is reinstated..

1985 SOURCE: New Section.

1985 COMMENT: This service as a trial judge by justices of the Supreme Court is old, and was practiced by the early U.S. Supreme Court before appellate business became too heavy. However, it also means that the Supreme Court justice cannot hear the appeal of his own case, thus causing problems for the Supreme Court. This section should be used only in emergencies, when no other judge can be found.

§ 6110. Law Practice Prohibited.

No full-time Justice, Judge, (except Judges appointed pro tempore), clerk of court, deputy, assistant or other officer of a court shall practice law in any court of Guam during his or her continuance in office nor be in partnership with a practicing attorney. This section shall apply to law clerks of the Supreme Court and of the Superior Court; provided, that such law clerks, if otherwise qualified, may represent and advise the court or any judicial officer, clerk or marshal, in matters concerning the official business of the court or officer thereof if no other law provides for such representation.

1985 SOURCE: § 174 CCP (Guam) as modified.

CROSS-REFERENCES: 5 GCA § 30107 and § 30108.

1985 COMMENT: Law clerks have been included within the purview of this Section in this draft. Their inclusion was not made heretofore as the existence of law clerks in the Superior Court is of more recent origin than former CCP § 174.

A proviso has been added to permit law clerks, if otherwise admitted to practice law (either generally or specially), to represent the Court, judges, the clerks and marshals, in any action involving their official duties, and to advise them in cases where questions arise before they are actually sued. Normally, the Attorney General provides such representation P.L. 13-117 (GC § 7007 and § 7006) . However, circumstances may occur where the Attorney General may represent another agency of the government in the same matter, or where the Attorney General may be the party bringing the action.

§ 6111. Judicial Retirement.

(a) All Judges in office on or before May 1, 1993 shall make an election as required in § 6114 in order to bring himself or herself within the purview of the Retirement Fund.

7 GCA CIVIL PROCEDURE
CH. 6 JUDICIAL OFFICERS, JUSTICES AND JUDGES

(b) All Judges taking office after May 1, 1993 through September 30, 1995 shall be eligible for membership in the Government of Guam Retirement Fund (Defined Benefit Plan), *subject* to their voluntary participation in the Government of Guam Defined Contribution Retirement System pursuant to 4 GCA § 8207, as amended.

(c) All Justices and all Judges taking office on or after October 1, 1995 shall become members of the Government of Guam Defined Contribution Retirement System, *subject* to their eligibility to be readmitted to the Government of Guam Retirement Fund (Defined Benefit Plan); *provided*, that they have *not* withdrawn their contributions thereto.

SOURCE: Repealed and reenacted by P.L. 24-327:9.

NOTE: Pursuant to § 1103, the Adate of enactment@ is May 1, 1993 for this section § 6111. This is a new section, applying to all new judges and does away with Ajudicial retirement@ at a higher percentage of salary for any judge appointed after May 1, 1993. Sitting judges are permitted an election.

§ 6112. Resignation, or Retirement for Reasons of Age.

Any Judge holding office at the time of enactment of this Act who resigns after serving at least twenty (20) years, continuously or otherwise, as a Judge, or after attaining the age of sixty-five (65) and after serving at least fifteen (15) years, continuously or otherwise, as a Judge, shall continue during the remainder of his or her life to receive ninety percent (90%) of the salary he or she received when he or she relinquished the office. For purposes of calculating the number of years of service, a Judge in office on the date of enactment of this Act shall receive one (1) year of credit for each year of service with the government of Guam not as a Judge, up to a maximum of five (5) years.

SOURCE: Amended by P.L. 22-2 (3/25/93). This amendment was made to correct technical errors in the original enactment in P.L. 21-147.

NOTE: While this section follows much of the former law, important conditions have been changed. Also, pursuant to § 1103 of this Title, this section becomes effective January 14, 1993 at midnight of that day.

§ 6113. Salary on Retirement for Disability or on Failure of Reappointment.

(a) Any Judge holding office at the time of enactment of this Act, who is removed by the Governor upon the sole ground of mental or physical disability or who fails reappointment, shall be entitled, upon relinquishing the office, if his or her judicial services aggregated fifteen (15) years or more, to receive during the remainder of his or her life eighty-five (85%) of

7 GCA CIVIL PROCEDURE
CH. 6 JUDICIAL OFFICERS, JUSTICES AND JUDGES

the salary he or she received when he or she relinquished the office. If his or her judicial service aggregated less than fifteen (15) years but not less than ten (10) years, he or she shall be entitled to receive, upon relinquishment of the office, during the remainder of his or her life fifty percent (50%) of the salary he or she received when he or she relinquished the office.

(b) Service at any time in any of the courts referred to in this section, or in any other court of Guam under appointment by the Governor or by the Legislature, shall be included in the computation of aggregate years of judicial service for purposes of this section.

NOTE: Likewise, this section contains significant changes. It, too, becomes effective on January 14, 1993 at midnight.

§ 6114. Membership in Government of Guam Retirement Fund.

(a) Any judge or justice in office on or before May 1, 1993 may, by written election filed with the Government of Guam Retirement Fund (>Fund') within six (6) months after the enactment of this Section, bring himself within the purview of the Fund. No judge *not* in office on the date of enactment of this Act or Justice may participate in any other government of Guam retirement program.

(b) There shall be deducted and withheld from the salary of each Judge electing to bring himself or herself within the purview of the Fund a sum equal to such percentage of such Judge's salary, including a salary paid after retirement, as may be prescribed by law, which shall be deposited with the Fund. Every Judge who elects to bring himself or herself within the purview of the Fund shall be deemed thereby to consent and agree to the deductions from his or her salary as provided in this section and payment less such deductions shall be in full and complete discharge and acquittance of all claims and demands whatsoever for all judicial services rendered by such Judge during the period covered by such payment, except the right to the benefits to which he or she or his or her survivors shall be entitled from the Fund.

(c) If any such Judge is entitled to any credit for past judicial services or for other service to the government of Guam, such Judge shall, in the same manner as other government of Guam employees, deposit with the Fund such sum as may be prescribed by law or regulations before any such prior services can be included in the computation of his or her total services for the purpose of computing any benefits to which he or she or his or her survivors shall be entitled under the provisions of the law establishing the Fund.

7 GCA CIVIL PROCEDURE
CH. 6 JUDICIAL OFFICERS, JUSTICES AND JUDGES

(d) If any Judge or Justice is a member of the Fund at the time he or she takes office as a Judge or Justice, his or her judicial employment shall be deemed a continuation of his or her former employment and all such past service shall be counted towards his or her retirement date and retirement annuity.

(e) If any Judge or Justice who is within the purview of the Fund relinquishes his or her office by resignation or otherwise, and he or she is not entitled to any salary, such Judge or Justice shall be entitled to any benefit from the Fund in the same manner as other government of Guam employees.

(f) Upon the death of a Judge or Justice who is within the purview of the Fund, the surviving spouse and the dependent children of such Judge or Justice shall be entitled to such annuities as may be prescribed by law in the same manner as other surviving spouses and dependent children of government of Guam employees.

NOTE: Major changes here in 1992. This section, too, was effective on January 14, 1993 at midnight.

SOURCE: Subsection (a) amended by P.L. 24-327:10.

§ 6115. Assignment of Retired Judge or Justice to Active Duty.

(a) Any retired Judge or Justice may be designated and assigned by the Chief Justice to perform such judicial duties in the Courts of Guam as he or she is willing to undertake, except that retired Judges shall only perform such duties in the Superior Court of Guam.

(b) No retired Judge or Justice shall perform judicial duties except when designated and assigned.

(c) All designations and assignments of Judges or Justices shall be filed with the Clerk of the Court and entered on the minutes of the Court from and to which made.

(d) A retired Judge designated and assigned by the Chief Justice to perform judicial duties shall be referred to as a Judge *pro tempore*.

(e) A retired Justice designated and assigned by the Chief Justice to perform judicial duties shall be referred to as a Justice *pro tempore*.

1985 SOURCE: CCP § 81.5 (P.L. 12-198).

SOURCE: Amended by P.L. 27-31:20. Basic effect is to limit retired Superior Court judges to sit in the Superior Court only.

§ 6116. Powers Upon Designation and Assignment.

7 GCA CIVIL PROCEDURE
CH. 6 JUDICIAL OFFICERS, JUSTICES AND JUDGES

(a) A Judge or Justice shall discharge, during the period of his or her designation and assignment, all judicial duties for which he or she is designated and assigned. He or she may be required to perform any duty which might be required of the court to which he or she is designated and assigned.

(b) Such Judge or Justice shall have all the powers of a Judge of the court to which he or she is designated and assigned, except the power to appoint any person to any position or to designate permanently a depository of funds or a newspaper for publication of legal notices.

(c) A Judge or Justice who has sat by designation and assignment in any court may, notwithstanding the expiration of the period of his or her designation and assignment, decide or join in the decision and final disposition of all matters submitted to him or her during such period and in the consideration and disposition of application for re-hearing or further proceedings in such matters.

1985 SOURCE: § 81.6 CCP added by P.L. 12-198.

1985 COMMENT: A change from former law would permit a retired judge to be assigned to hear felonies. There is no reason to limit a retired judge, who may be well-qualified to hear felonies. If any question as to qualification arises, such as with a judge not a lawyer, he need not be assigned to the case. In any event, there is no need to place such a restriction in law.

§ 6117. Election of Retirement System.

Notwithstanding any other provision of law to the contrary, any Judge holding office at the date of enactment of this Act shall be permitted upon retirement from active duty to elect whether he or she wishes to be covered by § 6114 of this Chapter if otherwise qualified; or whether he or she desires to avail himself or herself of the annuities under the Fund if he or she is a member of the Fund.

NOTE: The Adate of enactment of this Act@ is January 14, 1993 at midnight pursuant to § 1103 of this Title. There is a definite potential for conflict between this section and § 6114 of this Chapter. Both sections deal with the election of sitting judges to choose which retirement system they wish to participate in. However, the terms of election differ in each section.
