CHAPTER 22
GENERAL FISCAL POLICIES AND CONTROLS

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ARTICLE 1
FUNDS MANAGEMENT

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§ 22101. Treasurer of Guam.

The Treasurer of Guam or his designated agent, shall receive, and account for all monies, from whatever source, giving proper authenticated receipts for the same. He shall disburse monies only upon properly signed warrants. He shall maintain a daily cash blotter in which shall be entered all cash transactions in detail, showing dates of all receipts and disbursements, names or persons making payments or receiving payments and amounts. This blotter shall be balanced daily. All receipts and warrants shall be turned over daily after recapitulation on control records to the Director of Administration for audit, verification, necessary ledger entries, and filing.

SOURCE: GC § 6100.

§ 22101.1. Monthly Disbursements to the Department of Education's School Districts.

[Repealed.]

SOURCE: Added by P.L. 24-142:9. Repealed by P.L. 26-26:13.

§ 22102. Treasurer's Bond.

Both the Treasurer and his authorized agent must be bonded in penal sums as directed by the Governor.

SOURCE: GC § 6101.

§ 22103. Official Title of Treasurer.

The official title of the Treasurer to be affixed to his official signature shall be Treasurer of Guam.

SOURCE: GC § 6102.

§ 22104. Warrants.

All warrants must be properly authorized and signed by the payee before acceptance by the Director of Administration. No warrants shall be accepted by the Director of Administration which are unsigned and the Treasurer shall be responsible for all disbursements not so authorized and signed.

SOURCE: GC § 6103.

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§ 22105. Claims for Loss of Government Funds.

Claims of officers or agents, whose duty it is to collect or account for public funds, for losses of funds in transit, by fire, burglary, or other unavoidable casualty, shall be submitted to the Director of Administration within fifteen days after such loss occurs, with all facts pertaining to the case. If the Director of Administration shall find that the said funds were properly remitted, and that the loss resulted through no fault of said officer or agent, he may, under written authority of the Governor, credit the account of such officer or agent with the loss; provided, that in no case shall a credit in excess of Two Hundred Dollars be given in this manner. Claims for losses in excess of Two Hundred Dollars may be submitted through the Director of Administration to the Governor for relief.

SOURCE: GC § 6104.

§ 22106. Payment of Claims for Loss.

All claims arising on account of outstanding liabilities shall be filed with the Director of Administration, with the evidence pertaining thereto. If the Director of Administration shall find that such claim is valid and unpaid, he shall certify the amount due to the Governor, who may issue a warrant on said certificate for payment.

SOURCE: GC § 6105.

§ 22107. Transmittal of Claim-related Documents.

A true copy of all orders of the government of Guam which may originate a claim or in any manner affect the settlement of any account, shall be transmitted by the proper officer to the Director of Administration.

SOURCE: GC § 6106.

§ 22108. Revolving Funds.

(a) The Governor may, when he deems it necessary and proper, create, establish and continue from appropriated funds or service fees, revolving or other special funds to be used in providing services and in maintaining such activities of the government of Guam as the purchase and sale of seed by the

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Department of Agriculture and the purchase of books by the Department of Education.

(b) Such revolving or other special funds, if and when created and established, shall be maintained separate and apart from any other funds of the government of Guam, and independent records and accounts shall be maintained in connection therewith as prescribed by the Director of Administration.

(c) All moneys received from said activities shall be deposited in the appropriate revolving or other special funds, and all debts, liabilities, obligations and operating expenses in connection with such activities shall be paid therefrom.

(d) The Director of the Department or such other officer who has cognizance and jurisdiction over such revolving or other special funds established as provided herein, shall monthly render to the Governor a statement reflecting the financial condition of the fund or funds under his jurisdiction.

(e) The Director of Administration shall periodically audit the accounts and records of such revolving or other special funds and render a report thereon to the Governor.

SOURCE: GC § 6112.

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.

§ 22109. Reports on Fund Conditions.

The Director of Administration shall make a monthly report to the Governor and the Legislature of the condition of, and activity within, every fund of the Government of Guam. He shall make a monthly report to the Chairman of the Legislature's committee which oversees the Tourist Attraction Fund (TAF) of the condition of, and activity within, the TAF. He shall further make an annual report which shall be made available to the general public.

SOURCE: GC § 6111.1. Amended by P.L. 23-15:5 (May 15, 1995).

NOTE: GC § 6112.1, establishing an Expense & Travel Fund, was repealed by P.L. 4-10.

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§ 22109.1. On-line Electronic Access to Bank Account Information.

All banks receiving government funds for deposit in a government bank account established at said bank shall provide "READ ONLY" access to such bank accounts via said bank's on-line banking website or via electronic access via other access source provided to the Department of Administration, to the Office of Finance and Budget, and to the Office of Public Accountability.

SOURCE: Added by P.L. 31-233:XII:39 (Sept. 7, 2012).

§ 22110. Accounting Forms.

Such forms as may be required from time to time for the proper conduct of business and relating to the system of accounting shall be prepared under the direction of the Director of Administration, subject to the approval of the Governor.

SOURCE: GC § 6111.

§ 22111. Direct Deposit of Judiciary Appropriations.

(a) With respect to the appropriations by *I Liheslaturan Guåhan* for the operations of the Judiciary of Guam for any fiscal year, the Director of Administration shall deposit, on the last day of each month, into a bank account designated by the Judiciary, a sum from the prior month's General and Special Fund revenue collections as defined in Subsection (a)(1) and (2) of this Section; provided, however, that the deposits for the fiscal year shall not exceed the total amount appropriated by *I Liheslaturan Guåhan* for the fiscal year.

(1) Deposit percentage calculation for each fiscal year shall equal the General Fund appropriation amount of the Judiciary of Guam's budget for the fiscal year divided by the total General Fund Revenue Available for Appropriation for the government of Guam as adopted by *I Liheslaturan Guåhan* in the General Appropriations Act for the same fiscal year. The term "General Fund Revenue Available for Appropriation" as used herein shall not include revenue for tax refund payments, federal sources, and the two percent (2%) General Fund Reserve as mandated by 5 GCA § 22436.

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(2) The monthly deposit shall be based on the percentage derived from Subsection (a)(1) of this Section multiplied by the actual cash collected by the aggregate revenue funding sources as defined in Subsection (a) of this Section.

(b) The Chief Justice of the Judiciary of Guam shall submit to the Speaker of *I Liheslaturan Guåhan, I Maga'lahen Guåhan*, and the Director of Administration, on or before October 10 of each year, a projected schedule of the monthly deposits in accordance with Subsection (a)(2) of this Section for the Judiciary for the fiscal year.

(c) It shall be a ministerial duty of the Director of Administration to make the monthly deposits to the Judiciary of Guam as required by this Section.

SOURCE: Added by P.L. 30-177:2 (July 22, 2010), effective thirty (30) days from date of enactment pursuant to P.L. 30-177:4. Amended by P.L. 31-077:XII:38 (Sept. 20, 2011).

ARTICLE 2
CENTRAL ACCOUNTING

§ 22201. Title.
§ 22202. Director.
§ 22203. Duties of Director.
§ 22204. Rules & Regulations.
§ 22205. Exceptions.

§ 22201. Title.

This Article shall be known as the Central Accounting Act.

SOURCE: GC § 6800 added by P.L. 13-96.

§ 22202. Director.

The Director of Administration, hereafter referred to as the Director, shall establish and administer the Central Accounting Office of the government of Guam, which will constitute the

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central accounting agency for the efficient management of a system of accounts.

SOURCE: GC § 6801 added by P.L. 13-96.

§ 22203. Duties of Director.

The Director shall, with due regard for the function of the specific agencies concerned, organize and operate the accounting system on a fund basis with a self-balancing set of accounts, recording cash and/or other resources together with all related liabilities, obligations, reserves and equities which are segregated for the purpose of carrying on specific activities or attaining certain objectives; establish an accounting system which provides budgetary control over general governmental revenues and expenditures; determine fairly and with full disclosure the financial position and results of financial operations; show that all applicable legal provisions have been complied with; establish various types of funds as are necessary and as required by law; shall account in the General Fund all financial transactions not properly accounted for in another fund; shall account in the Special Revenue Funds all proceeds of specific revenue sources or to finance specific activities as required by law; shall account in the capital improvements funds all receipts and disbursements of monies used for the acquisition of capital facilities; shall account in other funds consistent with legal and operating requirements; classify accounts to insure compliance with budgetary provisions; provide a basis for financial and administrative control, furnish data required for financial statements and provide a basis for comparison with similar data for other periods, etc.; establish standards, procedures and techniques for a central accounting system; conduct a continuing review of all accounting operations to effect improvements in accordance with current accounting practices; establish standards for the preparation of financial statements and other reports as are necessary; maintain all Federal grant award funds including maintenance of

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encumbrance and expenditure; and obtain reports from all departments and agencies as are required for the effective administration of a central accounting system; and take all actions necessary to ensure that an adequate public education is available to every public school student.

SOURCE: GC § 6802 added by P.L. 13-96:1. Amended by P.L. 27-78:3. Amended by P.L. 28-045:12 (June 6, 2005), effective Oct. 1, 2005 pursuant to P.L.28-045:23.

2013 NOTE: There is manifest error in P.L. 28-045:12 (June 6, 2005); although it refers to § 20203 of this Title, the correct amendment is to this section.

§ 22204. Rules & Regulations.

The Director of the Department of Administration together with the Director of the Bureau of Budget and Management Research, subject to the approval of the Governor of Guam, shall prescribe rules and regulations as are necessary or proper to effectuate the purposes of this Article; provided, however, that the exercise of the rule-making authority herein granted shall be made in accordance with the provisions of the Administrative Adjudication Law. Unless otherwise found to be impracticable, such rules and regulations shall provide that the principles of the governmental accounting and reporting, classification of funds and accounts, and accounting terminology shall conform to those recommended by the National Committee on Governmental Accounting.

SOURCE: GC § 6803 added by P.L. 13-96:1.

NOTE: Reference to Territorial Auditor deleted from first clause because the Office of Territorial Auditor has been repealed (P.L. 17-7:1). The Office of Public Auditor has been created by P.L. 21-122, as 1 GCA Chapter 19.

2009 NOTE: Reference to Office of Public Auditor changed to Office of Public Accountability pursuant to P.L. 30-027:2 (June 16, 2009).

§ 22205. Exceptions.

The provisions of this Act shall not apply to the accounting operations of the Guam Waterworks Authority, the Guam Power Authority, the A. B. Won Pat International Airport Authority Guam, the Guam Housing and Urban Renewal Authority, the

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Guam Housing Corporation, the Guam Economic Development and Commerce Authority, the Judicial Branch, the Legislative Branch, the Guam Community College, the Department of Education the University of Guam, the Guam Mass Transit Authority and the Office of the Attorney General of Guam.

SOURCE: GC § 6804 amended by P.L. 16-44, P.L. 16-56:10 and P.L. 19-11:10. Amended by P.L. 25-06:2. Repealed and Reenacted by P.L. 27-110:3. Amended by P.L. 38-136:XII:79 (Aug. 28, 2026).

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.

NOTE: Public Law 16-63 added GC § 6806 and § 6807 relative to federal block grants. However, section 3 of that law automatically terminated those two sections effective Sept. 30, 1984. Therefore, these two sections are not included in this Code.

ARTICLE 3
REGULATION OF FEDERAL EXPENDITURES

§ 22301. Purpose.
§ 22302. Definitions.
§ 22303. Receipt of Federal Funds.
§ 22304. Expenditures Restricted.
§ 22305. General Fund Protected.
§ 22306. Penalty for Noncompliance.

§ 22301. Purpose.

It is the purpose of this Article to clarify the role of the Guam Legislature in appropriating Federal funds received by Guam so as to assure that the purposes of the government of Guam are served and legislative priorities are adhered to by the acceptance and use of such funds.

SOURCE: GC § 6800 added by P.L. 14-83:1.

2018 NOTE: References to "Territory" removed and/or altered to "Guam" pursuant to 1 GCA § 420.

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COMMENT: 1. Annual Budget laws usually contain one or more provisions applicable to the use of federal funds. Therefore, please look at each year's annual budget to see the latest provisions on this subject.

2. Section 1423j of Title 48, United States Code, is paramount to local legislation [this Article] and provides that the United States Congress can make appropriations directly to the government of Guam. Where these appropriations or grants completely fund a specific purpose without the need of local funding, and where the appropriation or grant does not provide for local legislative control, there is no authority for the Guam Legislature to assume the responsibility for reappropriating these funds. *Wong, Deputy Consumer Counsel v. Camina, Director, Bureau of Budget & Management Research*, 2 Guam R. 132, 133 (1978).

§ 22302. Definitions.

As used in this Article:

(a) Agency means all offices, departments, boards, commissions, councils, committees, public corporations, or other entities of the Executive Branch, offices of the Judicial Branch and offices of the Legislative Branch of the government of Guam.

(b) Agency Head means the principal officer of a department or agency.

(c) Federal funds means any financial assistance made to an agency by the United States government, whether a loan, grant, subsidy, augmentation, reimbursement, or in any other form.

(d) Federal program means the program or project supported in whole or in part by Federal funds.

SOURCE: GC § 6801 added by P.L. 14-83.

§ 22303. Receipt of Federal Funds.

(a) All Federal funds shall be deposited in and credited to the General Fund account and be available for appropriation by the Legislature as part of the Guam's operating budget; furthermore, detailed and accurate accounting records shall be maintained for such Federal funds.

(b) The provisions of subsection (a), above, shall not apply to those cases where by statutory enactment the Legislature has created a special fund or restricted receipt account and has

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specifically provided thereby for an exclusive, special purpose, or other use of Federal funds so long as such Federal funds are used solely and exclusively for such specific statutory purpose or purposes.

SOURCE: GC § 6802 added by P.L. 14-83:1.

2018 NOTE: References to "Territory" removed and/or altered to "Guam" pursuant to 1 GCA § 420.

§ 22304. Expenditures Restricted.

(a) No department or agency may make expenditure of any Federal funds regardless whether such funds are advanced prior to expenditure or as reimbursement unless such expenditures are made pursuant to specific appropriations of the Legislature.

(b) The Health Security Trust Fund, subject to legislative approval, may be invested or reinvested in bonds or in securities that are approved for the Retirement Fund, or according to modern investment practices of similar funds. The appropriations from the Health Security Trust Fund shall be limited to fifty percent (50%) of the initial deposit from the proceeds of the sale for the first four (4) years. Thereafter, expenditures shall be limited to ninety percent (90%) of the earnings of the Fund.

(c) If Federal funds received are greater than the amount of such funds appropriated by the Legislature for a specific purpose pursuant to this Article, the total appropriation level of Federal and local funds allocated for such purpose shall remain at the level designated by the Legislature.

SOURCE: GC § 6803 added by P.L. 14-83:1. Subsection (b) amended by P.L. 27-69:6(b).

COMMENT: See COMMENT to § 22301. Many federal grants provide for specific ratios of local to federal funds. Other grants and programs provide that federal funds cannot supplant local funds for the project. Check with the specific grant or program for details.

§ 22305. General Fund Protected.

To insure that the General Fund will not be burdened with expenditures for Federal projects, an agency head responsible for administering any Federal funds shall submit to the Director of the Guam State Clearinghouse on the 30th of each month a report on

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expenditures incurred for Federal programs for the preceding month. Said report shall be certified by the agency head for accuracy and compliance with all applicable laws and regulations governing administration of the programs.

The form and details of this report shall be prescribed by the Director of the Guam State Clearinghouse. The Director of the Guam State Clearinghouse shall promptly discontinue disbursement of funds for Federal programs for noncompliance by agencies with these reporting and certification requirements.

SOURCE: GC § 6804 added by P.L. 14-83:1. Amended by P.L. 26-169:6.

§ 22306. Penalty for Noncompliance.

The administration of authorized Federal programs shall be in full compliance with all applicable laws, rules and regulations governing the program. Noncompliance requirements by officials or employees of the government of Guam shall be cause for dismissal. Expenditure of public funds in violation of laws, rules, regulations, or guidelines established for the program shall void the appropriation for the program and the amount expended in violation shall be due and payable to the government of Guam by the officer or employee responsible for the act.

COMMENT: GC § 6805 added by P.L. 14-83:1.

NOTE: P.L. 14-83:2 repealed P.L. 13-85, which had added a predecessor article on the same subject, but placing the law in §§ 5200-5202 of the Government Code.

ARTICLE 4
REGULATION OF LOCAL EXPENDITURES

§ 22401. Illegal Expenditures.
§ 22401.1. Expenditures on Alcoholic Beverages Illegal.
§ 22402. Emergency Expenses.
§ 22403. Authorization to Borrow for Agat Jr. High School.
§ 22404. Transfer Authority: Capital Improvements.
§ 22405. Transfer Authority: Judiciary.
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§ 22407. Entertainment Expenses Included in Certain Appropriations.
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§ 22417. Use of Revenues, General Obligation Bonds.
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§ 22419. Vending Machines in Schools and Parks.
§ 22420. Placement of Vending Machines.
§ 22420.1. Policy in Favor of Healthy Food and Beverage Products in all Vending Machines Located Within Government Facilities.
§ 22421. Transfer of Autonomous Agency Revenues to Autonomous Agency Collections Fund. [Repealed.]
§ 22422. Infrastructure Improvement Fund.
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§ 22424. General Obligation Bond for Capitol Building.
§ 22425. General Obligation Bonds for Certain Capital Projects, Including Certain Educational Facilities Projects.
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§ 22427. Government of Guam Loan.
§ 22428. Utility Expense Fund.
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§ 22430. Source of Payment for Government Notices/Website Required.
§ 22431. Line of Credit. [Repealed]
§ 22432. Creation of Fund.
§ 22433. Authorization Conditioned
§ 22434. Expiration Date for Encumbrances.
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§ 22436. General Fund Appropriations Cap.
§ 22437. Approval of Financial Agreements or Arrangements.
§22438. Timing of Municipal Lease Payments.

§ 22401. Illegal Expenditures.

(a) No officer or employee of the government of Guam, including the Governor of Guam, shall:

(1) Make or authorize any expenditure from, or create or authorize any obligation under, any appropriation or fund in excess of the amount available therein, or for other than an authorized purpose;

(2) Commence, continue, or proceed with any operational activity, construction, improvement, contract, or obligation without an appropriation or fund for the payment thereof; or after any such appropriation or fund is exhausted;

(3) Involve the government of Guam in any contract or other obligation, for the payment of money for any purpose, in advance of the appropriation made for such purpose;

(4) Employ personnel or accept voluntary service except as authorized by law;

(5) Involve the government of Guam in any contract, or other obligation for the payment of money in support of, or against the enactment of any measure pending before the Legislature. Nothing in this paragraph shall be deemed to preclude the presentation of testimony before any committee of the Legislature by authorized representatives of the various departments, agencies, commissions, boards, or other political subdivisions of the government of Guam in support of, or against, the enactment of any measure pending before the Legislature;

(6)(A) As used in this Section, the term appropriation means the funds allocated by the Legislature which directs how the amount, manner and purpose of the funds are to be used.

(B) The amount available in any appropriation shall be deemed to mean the original amount of an

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appropriation from which any expenditure, contract, or obligation is intended to be paid, less amounts previously paid from such appropriations, less amounts that must be paid from such appropriations for the period of the appropriation to satisfy obligations of government under contracts actually made and to be satisfied from such appropriation.

(b) Nothing in subsection (a) hereof shall preclude the employment of personnel on a contract basis for a period beyond the current annual appropriation, or the employment of personnel in cases of emergency involving the safety of human life or the protection of property.

(c) Any officer or employee of the government of Guam who shall violate subsection (a) hereof shall be subjected to appropriate disciplinary action by the branch of the government concerned, including removal where warranted, and any officer or employee of the government of Guam who shall knowingly and willfully violate subsection (a) hereof shall be guilty of a misdemeanor.

(d) As used herein, government of Guam includes all three branches, Executive, Legislative, and Judicial; officer includes, but is not limited to, directors and agency heads, judges, and members and attaches of the Legislature.

(e) Any violation of this Section by an officer or employee of the Executive Branch shall be reported at once to the Governor by the head of the department or agency concerned, and the Governor shall furnish a report thereon, including the action taken, to the Legislature.

SOURCE: GC § 6118: subsection (a)(5) added by P.L. 12-181, amended by P.L. 12-184; subsection (a)(6) added by P.L. 17-50:1.

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 subsection (a)(6).

§ 22401.1. Expenditures on Alcoholic Beverages Illegal.

Except for Guam Visitors Bureau, the A.B. Won Pat International Airport Authority of Guam, and the Governor and the Lieutenant Governor, no officer, employee, or agent of any

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public corporation or of any branch, department, agency, or instrumentality of the government of Guam, including, but not limited to, the Guam Power Authority, the Guam Economic Development and Commerce Authority, the Guam Housing Corporation, the Government of Guam Retirement Fund, the Jose D. Leon Guerrero Commercial Port, the Guam Waterworks Authority, the Guam Memorial Hospital Authority, and Boards and Commissions established by law or rule, shall expend public funds for the purchase of alcoholic beverages.

SOURCE: Added by P.L. 27-152:2. Repeal and reenacted by P.L. 28-068:IV:78 (Sept. 30, 2005).

§ 22402. Emergency Expenses.

I Maga'lahen Guåhan [the Governor] is authorized to utilize no more than Two Hundred Fifty Thousand Dollars ($250,000.00) from General Fund appropriations for the Executive Branch for expenses resulting from civil defense, public safety, or healthcare emergencies. Whenever this authorization is used, *I Maga'lahen Guåhan* [the Governor] shall provide a written report of the expenditures of such funds and its source to *I Liheslaturan Guåhan* [the Legislature] and the Public Auditor within five (5) days of such transactions.

SOURCE: GC § 6113 amended by P.L. 15-75:4. Repealed by P.L. 26-01:V:16. Added by P.L. 27-06:2.

§ 22403. Authorization to Borrow for Agat Jr. High School.

(a) The Governor may negotiate a loan of not to exceed Three Million Dollars from the Farmers Home Administration, U.S. Department of Agriculture. The term of the loan shall not be for more than 40 years at a rate of 5% interest per annum. The money borrowed shall be used to complete construction of Agat Junior High School.

(b) The Governor is authorized to execute any promissory note and/or such other instrument(s) of indebtedness which may be required by the Farmers Home Administration for purposes of obtaining the $3,000,000 loan referenced in subsection (a) of this Section. The Governor is also authorized to assign, pledge or grant a security interest in the real property tax revenue payable to the government of Guam in 11 GCA § 24103 or in the funds

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appropriated and hereafter appropriated to Agat Junior High Sinking Fund, referenced in subsection (c) of this Section. The Legislature shall approve the terms of the loan by resolution prior to execution of any note or such other instrument(s) of indebtedness.

(c) There is created within the Treasury of Guam the Agat Junior High Sinking Fund. The fund shall be used to pay the government's annual obligation to Farmers Home Administration on the loan to reconstruct Agat Junior High School and shall exist only until the principal and the interest be fully paid. The sum of $200,000 is hereby appropriated annually, until the principal and interest of the $3,000,000 loan from Farmers Home Administration be fully paid, from revenue collected pursuant to 11 GCA § 24103 to the Agat Junior High Sinking Fund. Such sums as are necessary to meet the annual obligation on the loan is appropriated from the Agat Junior High Sinking Fund. If the promissory note and/or such other instruments(s) of indebtedness are not secured by an assignment, pledge, or security interest in the funds appropriated and hereinafter appropriated to the Agat Junior High Sinking Fund, then at the end of each fiscal year, any balance of the Fund is reverted to the General Fund.

(d) The Treasurer of Guam shall make necessary payments to the Farmers Home Administration in accordance with the terms and conditions of the instrument(s) of indebtedness from the Agat Junior High Sinking Fund.

SOURCE: GC § 6113.1 added by P.L. 15-62; subsections (b), (c) and (d) amended by P.L. 15-86:2-4.

§ 22404. Transfer Authority: Capital Improvements.

There is hereby authorized an annual appropriation, for the purpose of supplementing, by transfer, any appropriation made for a capital improvement or other specific project, excluding annual operating appropriations. Such transfers may be made by the Governor, with the concurrence of the Committee on Rules of the Legislature, in the following cases only:

(a) Where the transfer is found to be necessary to avoid waste or to avoid undue delay in completing an improvement or project; and

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(b) The total transfers shall in no event be more than $5,000 or 10% of the appropriation, whichever is less, made for the improvement project.

SOURCE: GC § 6118.1.

COMMENT: The Legislature does not have the power to approve, through action of a committee, any matter which will bind or govern the Executive Branch. See Attorney General Opinion PCF# 85-1031; see also *INS v. Chada*, 103 S.Ct. 2754 (1983).

NOTE: GC § 6118.2, permitting the Executive to transfer operating funds, was repealed by P.L. 16-111:II:1, but see annual budget bills for this authority, if given. Also note that yearly appropriation laws may modify, for that year, the provisions of § 22404 and § 22405.

§ 22405. Transfer Authority. Judiciary.

Notwithstanding any other provision of law, the Judicial Council is hereby authorized to transfer up to ten percent (10%) of funds appropriated by *I Liheslatura* to various divisions or categories within the Judicial Branch; provided, that notice of each transfer and justification therefore are delivered by the end of the month in which the transfer takes place to the Speaker of *I Liheslaturan Guåhan*.

SOURCE: GC § 6118.3 added by P.L. 11-157 (July 18, 1972). Repealed/Reenacted by P.L. 22-41:5. Amended by P.L. 22-140:V:19 (09/29/94). Amended by P.L. 23-45:8 (10/18/95). Repealed/Reenacted by P.L. 27-55:4.

§ 22406. Reversion of Appropriations.

Notwithstanding any other provision of law, unless any work has commenced and ten percent (10%) of the funds have been expended to accomplish the purpose of an appropriation for a capital improvement or a capital outlay, any such appropriation shall cease to be an appropriation and shall become an authorization for an appropriation on March 31, 1999. All sums previously appropriated shall revert to the fund from which appropriated. The Director of Administration shall make a report in a format which shall be submitted to *I Liheslaturan Guåhan* on sums which have been appropriated and which shall continue to be appropriated for ongoing programs within ninety (90) days after the effective date of this Section.

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SOURCE: GC § 6010 added by P.L. 18-1:17; R/R by P.L. 19-19:66, effective Aug. 22, 1988. Amended by P.L. 23-45:IV:5. Amended by P.L. 25-003:V:20.

COMMENT: [1993] This section performs the same purpose as former 1 GCA § 104, repealed by P.L. 15-142:8.

CROSS-REFERENCES: P.L. 27-69:4 states: Notwithstanding the general provisions of § 22406 of Title 5 of the Guam Code Annotated, which require that unused and de-appropriated funds revert to the General Fund, or any other provision of law to the contrary, all unused funds appropriated herein shall, in all circumstances and whether in whole or in part, remain in the Guam Behavioral Health and Wellness Center Fund and shall be carried over into the next fiscal year and shall be expended exclusively for youth compliance monitoring and tobacco and drug prevention and education programs.

2013 NOTE: Pursuant to P.L. 32-024:2 (May 6, 2013) which renamed the Department of Mental Health and Substance Abuse (DMHSA) to the Guam Behavioral Health and Wellness Center, all references to DMHSA were altered to the Guam Behavioral Health and Wellness Center.

§ 22407. Entertainment Expenses Included in Certain Appropriations.

Whenever the terms contingent expenses or contingent fund are used in any appropriation act, they shall include, but not be limited to, entertainment expenses for official purposes.

SOURCE: GC § 6118.4 added by P.L. 13-118:3.

§ 22408. Charitable Donations.

The Governor is authorized to accept monetary donations, from any individual or organization, which shall be deposited in a separate fund by the Treasurer of Guam. Such donations shall, upon authorization by the Governor, be used and expended in accordance with the terms and conditions upon which they were made. Nothing herein shall be construed to prevent the Governor on behalf of the government of Guam from accepting donations of property from any individual or organization.

SOURCE: GC § 6119.

§ 22409. Capital Improvement Highway Debt.

(a) The Governor of Guam is authorized to create a debt or debts of the government of Guam in aggregate principal amount not to exceed Thirty-five Million Dollars for the purposes of

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implementing capital improvement highway projects; provided, however, that the terms and conditions of the debt or debts shall be approved by the Legislature by Resolution. The sentence contained in 12 GCA § 2103(k) stating: The failure of the Legislature to adopt a resolution rejecting the terms and conditions of the issuance of the bonds for forty-five (45) calendar days of the date of its submission to the Legislative Secretary shall be concurrence to the issuance of the bonds, shall not apply to the provisions of this Section and § 22409 of this Article.

(b) Such debt or debts may be created by a loan or other agreement executed by the Governor containing such terms as are consistent with this Section and § 22409 of this Article or may be created by the issuance of bonds in one or more series sold at such terms as are consistent with this Section and § 22409 of this Article.

(c) Any bonds authorized by this Section shall be issued pursuant to an indenture executed by the Governor on behalf of the government of Guam, which indenture shall specify the forms, amounts, maturity dates, interest rates, interest payment dates, denominations, places of payment, registration provisions, rights of exchange, redemption dates and default provisions for such bonds and shall otherwise provide for the use of proceeds of such bonds and the security for such bonds, including the pledge authorized by § 22409 of this Article, in a manner not inconsistent with this Section and § 22409 of this Article.

(d) Any debt or debts authorized by this Section shall constitute the valid and legally binding limited obligation of the government of Guam payable from and secured by a pledge of the revenues described in § 22409 of this Article, as amended. The validity of any such debt or debts shall not be affected by the validity or regularity of any proceedings for the implementation of capital improvement highway projects funded by the debt or debts.

SOURCE: GC § 6123 added by P.L. 17-79; amended by P.L. 18-2:1. P.L. 15-53:4, uncodified, having the same purpose, was repealed by P.L. 17-79:1.

COMMENT: The Legislature does not have the power to approve, through a resolution, any matter which will have the force or effect of law.

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See Attorney General Opinion PCF# 85-1031; see also *INS v. Chada*, 103 S.Ct. 2754 (1983).

§ 22410. Revenues Pledged.

All or any part of the revenues from the taxes levied pursuant to Article 4, Chapter 26, 11 GCA Taxation, and from the license fees and penalties imposed pursuant to 16 GCA §§ 7136, 7159, 7170, 7171, 3102, 7173 and 11101 may be pledged to secure the repayment of any debt or debts created under § 22409 of this Article. Any pledge made to secure bonds shall be subject to approval by the Legislature by resolution pursuant to § 22409 of this Article and shall be valid and binding from the time the pledge is made. The revenues pledged and thereafter received by the government or any trustee, depositary or custodian shall be deposited in a separate account and shall be immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the government, such trustee, depositary or custodian, irrespective of whether the parties have notice thereof. The indenture by which such pledge is created need not be recorded. All such taxes, fees and penalties, to the extent so pledged, are hereby continuously appropriated for such purpose. All capital improvement highway projects to be funded from the provisions of §§ 22409 and 12410 of this Article must be reviewed and approved by the Governor prior to their implementation.

SOURCE: GC § 6124 added by P.L. 17-79; amended by P.L. 18-2:2.

§ 22411. Capital Improvements Funded by § 22409.

The Capital Improvement highway projects to be funded from the implementation of § 22409 and § 22410 of this Article are:

85-01	Reconstruction of Route 8, Phase 1
85-02	Reconstruction of Route 1 (from Y-Sengsong Road to Gayinero Road)
85-04	Interchange of Route 1 in Agana
85-05	Reconstruction of Route 2 (from Agat to Umatac)

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85-07 Reconstruction of Route 1 (from Route 4, Agana to Route 11 Intersection, Piti)

85-08 Reconstruction of Route 1 (From Route 11, Piti, to Route 2A Intersection, Agat)

85-09 Extension of Chalan Kanton Tutujan in Sinajana to Route 7, Agana Heights)

SOURCE: GC § 6125 added by P.L. 17-79:3.

NOTE: Please see P.L. 19-2:2, as amended by P.L. 19-17, 1 and 2, for a prioritized listing of highway projects. Same comprises the legislative intent for expenditure of funds "derived pursuant to Resolution No. 75 (Highway Bonds)."

§ 22412. Employment of Residents Required.

No contract or subcontract may be awarded to any contractor providing services on the capital improvement projects funded from the implementation of § 22409 and § 22410 of this Article unless 75% of the persons employed by the contractor to work on such projects are residents of the Guam. Any contract awarded in violation of this Section shall be null and void ab initio. No money may be drawn on for capital improvement projects funded from the implementation of § 22409 and § 22410 of this Article until the trustee, depositary or custodian of the funds certifies that the contract awarded is in conformity with the requirements of this Section.

SOURCE: GC § 6126 added by P.L. 17-79:4; amended by P.L. 18-02:3.

2018 NOTE: References to "Territory" removed and/or altered to "Guam" pursuant to 1 GCA § 420.

§ 22413. Line of Credit for the General Operations.

I Maga'låhen Guåhan, (the Governor) on behalf of the government of Guam, is authorized to arrange a line of credit not to exceed Twenty Million Dollars ($20,000,000) with any bank or commercial lending institution licensed on Guam for the payment of general operations of the government when the funding of the deposits for income tax refunds result in a shortfall of cash required to pay for appropriations for operations in the Annual Appropriations Act. The terms of the line of credit shall include the following:

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(a) the line of credit shall be used by *I Maga'låhen Guåhan* to pay for general operations in cases where a cash shortage is eminent and a strong likelihood exists that the shortage could hamper governmental operations;

(b) prepaid charges shall not be levied by the bank or trust department for opening the line of credit;

(c) the interest rate shall be subject to competitive negotiations between *I Maga'låhen Guåhan* (the Governor) and the banks; such interest rate shall be computed on a monthly average and based on the actual amounts extended to the government;

(d) interest earned by the financial institution providing the proceeds for the line of credit shall be exempt from taxation by the government of Guam;

(e) all terms of the line of credit agreement not specifically defined in the foregoing shall be negotiated by *I Maga'låhen Guåhan* [the Governor] in the best interests of the people of Guam;

(f) funds necessary for such repayment of interest and principal on loans authorized by this Section of this Article are appropriated from the General Fund and any pledge revenues; the duration for repayment of the loan shall be negotiated by *I Maga'låhen Guåhan* [the Governor] which shall not extend beyond two fiscal years;

(g) funds necessary for the repayment of interest and principal on loans authorized by this Section and (§ 22414 of this Article are appropriated from the revenue derived from the tax increase contained in P.L. No. 17-4, and, to the extent necessary, from other revenues of the government of Guam and the General Fund; any excess funds from the tax increases contained in P.L. No. 17-4 shall be used to retire said debt instruments as additional principal payments and for no other purposes;

(h) notwithstanding the first Paragraph of this Section, or any other provision of law, the terms of the line of credit arranged by *I Maga'låhen Guåhan* [the Governor] as

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provided by this Section, may permit the bank or commercial lending institution licensed on Guam with which such line of credit is arranged to grant participation in such line of credit, at such times and in such amounts and upon such terms and conditions as such bank or lending institution licensed in Guam shall determine, to other banks, or commercial lending institutions, including those not licensed on Guam, or to any other persons, associations, or corporations; the exemption from taxation by the government of Guam of the interest derived from the line of credit shall be preserved to any such participant; such participation shall be made by public offering;

(i) the loan may be secured by pledge of funds or a guaranty of the government of Guam, including the revenues derived by the government of Guam under §30 of the Organic Act of Guam; and

(j) notwithstanding any substantive or procedural provision of Chapter 6 of Title 5 of the Guam Code Annotated, the government of Guam hereby waives immunity from any suit or action in contract on the line of credit but does not waive sovereign immunity of elected or appointed officials and employees of the government of Guam.

SOURCE: GC § 6120 15-53:1, amended by P.L. 17-4:1. Subsection (g) added by P.L. 17-53:22. Amended by P.L. 17-59:4. Subsection (h) added by P.L. 17-28:8. Amended by P.L. 26-122:13, P.L. 31-077:XII:42 (Sept. 20, 2011).

NOTE: Govt. Code § 6121, imposing fiscal austerity, was passed by P.L. 17-53. By its own terms, this law expired on September 30, 1985. Even though codified, it will not be placed here as it is no longer in force.

§ 22414. Documented Liabilities; Repayment.

Liabilities of the government of Guam documented on May 26, 1984 by Touche, Ross & Co. are recognized by the Legislature, and are listed as follows:

Due to GovGuam Retirement System	$16,120,000
Tax refunds (personal income)	13,500,000
Due to various vendors	2,000,000

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Tax refunds, corp. carryback losses	2,500,000
Tax refunds, due to GEDA rebate program	3,000,000
Litigation claims payable	750,000
	$37,870,000

No payment by the government of Guam is to be made on any of the liabilities listed above after the effective date of this Section [June 4, 1984] except as specifically appropriated by the Legislature or as provided as follows:

(a) Pursuant to § 22413 of this Article, except for subsection (a) of that Section, the Governor on behalf of the government of Guam is authorized to borrow an amount not to exceed Fourteen Million Dollars. This $14,000,000 includes the $4,000,000 authorized to be arranged as a line of credit subject to approval by the Legislature by Resolution according to § 22413 of this Article (as found in P.L. 17-4) and not yet drawn down as of June 4, 1984 and an additional $10,000,000. The amounts, interest rates, and maturity date of the borrowing and renewals and replacements thereof of the entire amount of $14,000,000 authorized to be borrowed by this Section shall be subject to the approval of the Legislature by Resolution, with all other terms to be determined in the discretion of the Governor through negotiation with the lending institution or institutions involved. This authorization to borrow additional funds shall be utilized first to pay the amounts appropriated in sections 6 through 20 of P.L. 17-59 and the balance to pay part of the obligations above with the obligations listed as

(1) Due to Government of Guam Retirement System,

(2) Due to various vendors, and

(3) Litigation claims payable to be paid on a prorated basis.

(b) The expenditures of the Government of Guam for FY'85 shall be 95% of the expenditures of the Government of Guam in FY'83 which is 95% of $178,000,000. The

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money realized from the 5% reduction in expenditures shall be used to retire the liabilities of the government listed above on a prorated basis.

(c) The debt of $16,120,000 owed by the General Fund to the Retirement Fund shall be repaid by not later than June 1, 1994 with interest at the average rate of return on investments of the Retirement Fund in the preceding fiscal year. Interest and principal shall be paid in quarterly installments commencing October 1, 1984. Interest shall accrue from March 31, 1984.

Notwithstanding other provisions of law, the Treasurer of Guam is directed to and charged with the duties and responsibilities to insure that all principal and interest is paid on time preceding all other liabilities and obligations of the Government of Guam other than loans authorized by this Section and existing loans authorized by § 22413 of this Article.

SOURCE: GC § 6122 added by P.L. 17-53:21; subsection (a) amended by P.L. 17-59:2; subsection (c) amended by P.L. 17-59:3.

COMMENT: See COMMENT to § 22409.

§ 22415. Promissory Note; Issuance to Creditors.

(a) Any creditor of the government of Guam (other than a tort claimant with an unadjudicated claim) who is not paid within thirty (30) days of filing his claim may request that the Director of Administration issue a registered, nontransferable promissory note in the amount of his claim from the government of Guam, bearing interest at six percent (6%) per annum and maturing one year from its date of issue. Within thirty (30) days of the request, the Director of Administration shall either issue said promissory note or shall deliver to the claimant a statement that part or all of the claim is disputed. If only part of the claim is disputed, a promissory note shall be issued for the undisputed portion. The Director shall, in the statement that part or all of the claim is disputed, designate a hearing officer for a hearing pursuant to the Administrative Adjudication Law, set a hearing date not less than thirty (30) days nor more than sixty (60) days from the date of the statement, and indicate with particularity the reasons the claim is disputed. If no such statement of disputed claim is issued within

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thirty (30) days, the claim shall be deemed undisputed.

(b) The amount of promissory notes issued in a fiscal year pursuant to subsection (a) hereof shall not exceed two percent (2%) of the total revenues projected pursuant to Title 2 Guam Code Annotated Chapter 13 for the General Fund for that fiscal year.

SOURCE: GC § 6131 added by P.L. 19-10:33. Amended by P.L. 29-019:VIII:7 (Sept. 29, 2007).

§ 22416. General Obligation Bonds.

(a) Authorization for issuance of General Obligation Bonds; Terms of Bonds. For the purpose of satisfying the obligation to the Retirement Fund from the General Fund, the Governor of Guam is authorized to issue one or more series of general obligation bonds of the government in an aggregate principal amount not to exceed Forty-five Million Dollars ($45,000,000); provided, that the bonds shall not be issued without any unqualified opinion of bond counsel that the interest on the bonds would be tax-exempt. The bonds shall mature at such times not later than July 1, 1996, shall bear interest at such rates not exceeding ten percent (10%) per annum payable at least semiannually on such dates commencing not later than one year after the date of issuance of the bonds, shall be in such denominations, shall be subject to redemption at such times and upon payment of such premium not exceeding four percent (4%) of the principal amount thereof and shall be sold at public or private sale for such price not less than ninety-six percent (96%) of the principal amount thereof plus accrued interest, all as determined by the Governor by execution of one or more certificates upon or prior to the issuance of the bonds.

(b) Authorization for Credit Enhancement. The Governor is authorized to enter into such contracts or agreements with such banks, insurance companies or other financial institutions as he determines are necessary or desirable to improve the security and marketability of the bonds. Such contracts or agreements may contain an obligation to reimburse, with interest, any such banks, insurance companies or other financial institutions for advances used to pay principal of or interest on the bonds. Any such reimbursement obligation may be secured by a pledge of the full

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faith and credit of the government of Guam and the revenues described in Subsection (i) of this Section.

(c) Use of Proceeds from Sale of Bonds. Proceeds from the sale of the bonds shall be used solely to satisfy the obligation to the Retirement Fund from the General Fund and to pay expenses related to the authorization, sale and issuance of the bonds, including without limitation, printing costs, costs of reproducing documents, bond insurance premiums, underwriting, legal and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings, fees and charges for execution, transportation and safekeeping of bonds and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds.

(d) Pledge of Full Faith and Credit; Authorization to Collect Revenues. The bonds shall constitute valid and legally binding general obligations of the government of Guam. The government of Guam pledges its full faith and credit for the punctual payment of both principal and interest on the bonds. There shall be collected annually in the same manner and at the same time as government revenue for other purposes is collected, such sum as is required to pay the principal and interest on the bonds. All officers charged bylaw with any duty in the collection of the government revenues shall do every lawful thing necessary to collect such sum.

(e) Appropriation from General Fund. There are appropriated from the General Fund such sums as will, together with any pledged revenues, equal in each year the amount of money necessary to pay the principal and interest on such bonds.

(f) Additional Parity Bonds. The government of Guam, after appropriate enabling legislation, may issue other general obligations of the government secured on a parity with such bonds by the general obligation of the government.

(g) Waiver of Immunity. Notwithstanding any substantive or procedural provision of Chapter 6 of this Title, the government of Guam waives immunity from any suit or action in contract on such bonds.

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(h) Certificate of Governor. The technical form and language of the bonds, including provisions for execution, exchange, transfer, registration, paying agency, lost or mutilated bonds, negotiability, cancellation and other terms or conditions not inconsistent with Subsection (a) of this Section shall be as specified in a certificate of authorization approved by the Governor, authorizing the issuance of the bonds. The Governor may appoint a trustee authorized to receive and hold in trust the proceeds of the bonds and revenues related thereto, to protect the rights of bondholders and to perform such other duties as may be specified in the certificate. The same or another such certificate may also authorize persons so designated to execute, on behalf of the government of Guam, any appropriate documents relating to the bonds and the sale of the bonds.

(i) Pledge of Section 30 Revenues. All or any part of the revenues derived by the government of Guam under Section 30 of the Organic Act may be pledged to secure the repayment of the bonds. Any pledge made to secure bonds shall be made by the certificate of authorization delivered pursuant to Subsection (h) of this Section and shall be valid and binding from the time the pledge is made. The revenues pledged and thereafter received by the government of Guam or by any trustee appointed pursuant to Subsection (h) of this Section. The revenues shall, upon receipt by or on behalf of the government of Guam, immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the government of Guam, irrespective of whether the parties have notice thereof. All such taxes, fees and penalties, to the extent so pledged, are hereby continuously appropriated for such purposes.

SOURCE: GC § 6128 added by P.L. 18-41:1.

§ 22417. Use of Revenues, General Obligation Bonds.

From the date of issuance of the first bonds authorized by § 22416 of this Code, all revenues thereafter received by the government for deposit in the General Fund, other than revenues pledged or required for the payment of principal of and interest on the bonds authorized by § 22416 of this Code, shall be paid to the

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Retirement Fund until the payments to the Retirement Fund together with the proceeds, if any, of the bonds paid to the Retirement Fund, satisfying the accrued obligation of the General Fund of Forty-three Million Two Hundred Thousand Dollars ($43,200,000) to the Retirement Fund, with interest, if any, as provided by law. Thereafter, such revenues shall be available for appropriation as provided by law.

SOURCE: GC § 6129 added by P.L. 18-41:2.

§ 22418. Revenue from Vending Machines.

Except for revenues derived from the sale of goods and services purchased from vending machines and amusement devices, which are located on property which is within the jurisdiction of the Department of Parks and Recreation, the University of Guam, the Guam Community College, the Guam Airport Authority and the public schools pursuant to Chapter 1, Article 2 of this Title, all net revenues derived from the sale of goods and services purchased from vending machines and amusement devices, located within any facility operated by the government including any autonomous or semi-autonomous government agency or any corporation which is wholly owned by the government shall be paid into the General Fund.

SOURCE: GC § 300 added by P.L. 13-190:1; amended by P.L. 18-003:1, 18-006:15, 18-007:5 and P.L. 19-24:1.

§ 22419. Vending Machines in Schools and Parks.

Notwithstanding any rule, regulations or law, all net revenues derived through the sale of goods and services utilizing vending machines and amusement devices, located within public schools shall be used exclusively for authorized student activities and all net revenues derived through the sale of goods and services utilizing vending machines and amusement devices, located within the jurisdiction of the Department of Parks and Recreation shall be deposited in the Recreation Activity Revolving Fund and expended by the Department of Parks and Recreation and all net revenues derived through the sale of goods and services utilizing vending machines and amusement devices, located within the University of Guam shall be budgeted and expended by the Student Body Association as approved by the Board of Regents

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and within the Guam Community College shall be budgeted and expended by the Student Body Association as approved by the Board of Trustees of Guam Community College. Nothing in the sections of this Act shall be construed to impair the obligation of existing contracts.

SOURCE: GC § 301 added by P.L. 13-190:1; amended by P.L. 18-3:1, 18-6:15, 18-7:5, and P.L. 19-24:2.

§ 22420. Placement of Vending Machines.

A contract for a duration not to exceed two (2) years for the placement of vending machines within facilities operated by the Government including any autonomous or semi-autonomous Government agency or any corporation which is wholly owned by the Government, shall be entered into only after advertising for sealed annual bids in a newspaper of general circulation within Guam fourteen (14) days prior to the formal bid opening and then only with the highest responsible bidder. The governing boards of the autonomous and semi-autonomous agencies and Government-owned corporations shall adopt rules and regulations not inconsistent herewith for the solicitation of bids. Bids for contracts for non-autonomous agencies within the Executive Branch shall be administered by the Director of Administration in accordance with Government bidding procedures. The procedure for the award of bids within facilities operated by the Judiciary or the Legislature shall be in accordance with bidding procedures applicable to those branches of Government, provided that bidding and contract procedures relative to the placement of vending machines and amusement devices on property under the jurisdiction of the Guam Airport Authority shall be in accordance with such rules and regulations as may be from time to time adopted by the Authority.

SOURCE: GC § 302 added by P.L. 13-190:1; amended by P.L. 18-3:1.

2018 NOTE: References to "Territory" removed and/or altered to "Guam" pursuant to 1 GCA § 420.

§ 22420.1. Policy in Favor of Healthy Food and Beverage Products in all Vending Machines Located Within Government Facilities.

(a) Fifty percent (50%) of all foods and beverages offered for

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sale in government-contracted food and beverage vending machines within all government owned or leased buildings, facilities and/or operational spaces under the control of the government *shall* adhere to specific guidelines promoting good nutrition and healthy environments. This mandate covers all machines designed to dispense food and/or beverages located within government facilities, but *shall not* apply to the vending machines within the control of the Guam Department of Education, or other departments or agencies where a stricter nutrition policy is in place.

This Section *shall* also apply to mobile food service establishments, and other food and beverage vendor activities, in either temporary or permanent fixed structures, on all government property, to the extent as provided pursuant to § 22420.2 of this Article 4.

Agency heads *shall* be responsible for the dissemination, implementation, and compliance with the approved policy for all vending machines on all government property, either owned or leased, and *shall* include all mobile food service establishments and other food and beverage vendor activities, in either temporary or permanent fixed structures, situated on all government property, or that are located within its departments, premises and facilities. Failure to comply with or the violation of any approved provisions of this policy *shall* result in the immediate removal or disablement of the vending machine.

(b) Development of Applicable Policy. The Director of the Department of Administration, in conjunction with the Department of Public Health & Social Services, shall promulgate rules and regulations, within one hundred twenty (120) days of the enactment of this Section, establishing standards pursuant to which the intent of this Section shall be implemented. The rules and regulations shall, at a minimum, provide for the following:

(1) Nutritional Facts and Guidelines. The vending machine operator shall provide a sign in close proximity to each and every article of food/beverage, or the selection button, that includes a clear and conspicuous statement disclosing the number of calories, fat, sugar, and sodium contained in the article.

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(2) At least fifty percent (50%) of beverages offered in a vending machine must contain one (1), or a combination, of the following:

(A) water;

(B) coffee or tea;

(C) nonfat or reduced fat milk (including soy or cow's milk, chocolate or other flavored milk not containing more than fifteen (15) grams of added sugar per two hundred fifty (250) gram serving or three (3) teaspoons of sugar per one (1) cup of milk;

(D) one hundred percent (100%) fruit/vegetable juice;

(E) fruit-based drinks containing one hundred percent(100%) fruit juice, and no added caloric sweeteners; and

(F) all other non-caloric beverages, including diet sodas.

(3) At least fifty percent (50%) of the snacks/foods offered in a vending machine shall meet the following criteria:

(A) not more than thirty-five percent (35%) of the calories shall be from fat, with the exception of nuts and seeds; snack mixes and other foods of which nuts are a part must meet the thirty-five percent (35%) requirement;

(B) not more than ten percent(10%) of the calories shall be from saturated fat;

(C) shall not contain trans fats that are added during processing (hydrogenated oils and partially hydrogenated oils);

(D) not more than thirty-five percent (35%) of the total weight shall be from sugar and caloric sweeteners, with the exception of fruits and vegetables that have not been processed with added sweeteners or fats, and not

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more than three hundred sixty (360) mg of sodium per serving; and

(E) at least one (1) item meeting the snack criteria in each vending machine shall also meet the FDA definition of "Low Sodium" (c 140mg per serving).

Further, the policy recommends that options within the vending machine contain items that include at least two (2) grams of dietary fiber.

(4) The applicable rules and regulations establishing applicable nutritional standards pursuant to this Section may be amended, as necessary, to adhere to future healthy dietary and nutritional standards set forth by the U.S. Food and Drug Administration.

(c) Implementation Timeline. By January 2014, *at least* fifty percent (50%) of all foods and beverages offered in government-contracted food and beverage vending machines within government facilities and offices *shall* adhere to the specific guidelines established pursuant to this Section. Government agencies which have existing vending machine contracts must ensure compliance by current vendors.

(d) All rules and regulations shall be promulgated, and may be amended, pursuant to Article 3 – Rule Making Procedures, of Chapter 9, Division 1, Title 5, Guam Code Annotated.

SOURCE: Added by P.L. 31-141:2 (Nov. 17, 2011). Subsection (a) amended by P.L. 32-085:4 (Nov. 27, 2013). Subsection (c) amended by P.L. 32-085:5 (Nov. 27, 2013).

NOTE: The Government of Guam Healthy Vending Machine Policy Rules and Regulations were adopted by P.L. 32-085:2 (Nov. 27, 2013), and are found in Title 2, Division 4, Chapter 13 of the Guam Administrative Rules and Regulations. The Department of Administration, in conjunction with the Department of Public Health and Social Services, shall at a minimum of every five years, review and amend these rules and regulations, as necessary. P.L. 32-085:3.

§ 22420.2. Policy in Favor of Healthy Food and Beverage Products in all Mobile Food Service Establishments or Other Food and Beverage Vendor Activities on Government Property or within Government Facilities.

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(a) Legislative Intent. It is the intent of *I Liheslaturan Guåhan* to mandate the inclusion of mobile food service establishments (also commonly referred to or known as a mobile canteen), or other food vendor activities, in either temporary or permanent fixed structures, on government premises, so as to comply with the provisions of § 22420.1, to the limited extent provided pursuant to this Section. For the purposes of this Section:

(1) mobile food service establishment (also commonly referred to or known as a mobile canteen) shall mean any privately operated food and beverage service activity operated from a mobile unit wherein foods are prepared and served.

(2) food and beverage vendor activity shall mean and include fixed structures, either permanent or temporary, wherein foods and beverages are prepared and served.

(3) prepackaged foods or snacks, or beverage(s) shall mean and be inclusive of all foods not directly cooked or prepared by the vendor, and beverages not in the original containers (i.e., unopened can or sealed container). This Section shall not apply to fresh beverages prepared on-site by the vendor; for example, but not limited to, low sugar juices or beverages made from fresh fruits and/or vegetables; nor shall this Section apply to manufactured foods, i.e., those foods prepared by a duly licensed business entity with a valid sanitary health permit issued for purpose of authorizing the preparation of food(s) which are to be served or sold by food retailers, to include, but not be limited to, stores, canteens (mobile or fixed) or various other types of vendors.

(4) The sale or distribution of any alcoholic beverage shall mean as defined pursuant to Title 11 GCA, Chapter 3; and the sale or distribution of any tobacco products is as defined pursuant to Subsection (g) of § 6101, Chapter 6, Title 11 GCA, which reads, "'Tobacco product' means any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, chewing tobacco or any other form of tobacco which may be utilized for smoking, chewing, inhalation or other means of ingestion,'" and shall include, as further provided pursuant to

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Title 10 GCA, Chapter 90A - Importation and Sale of Ingestible Tobacco, and shall be prohibited.

(b) This Section shall not apply to temporary, short-term food and beverage vendor activities utilizing either mobile or fixed structures, and which are licensed or permitted to operate during special events hosted or sponsored by a municipal planning council, government of Guam entity, or authorized non-profit organization for village or island events.

(c) Development of Applicable Policy. The Director of the Department of Administration, in conjunction with the Department of Public Health & Social Services, shall promulgate the amendment of the policy established pursuant to § 22420.1 of this Article, and codified under Chapter 13 of Division 4, Title 2, Guam Administrative Rules and Regulations, within one hundred twenty (120) days of the enactment of this Section, so as to include all mobile food service establishments (also commonly referred to or known as mobile canteens), or other food and beverage vendor activities, in either temporary or permanent fixed structures, to the extent provided pursuant to this Section.

(1) The applicable rules and regulations establishing applicable nutritional standards pursuant to this Section shall be promulgated and amended, as necessary, and shall adhere to future healthy dietary and nutritional standards set forth by the U.S. Food and Drug Administration, as provided pursuant to § 22420.1 of this Article 4.

(d) Implementation Timeline. This Section shall be effective on January 2014, or upon the amendment and promulgation of policy relative to this Section, as provided pursuant to Subsection (c), whichever is later.

Government agencies which have existing authorized or permitted food and beverage vendor agreements or contracts must ensure compliance with this Section by current vendors.

(e) The amendment of any policy, rules and regulations, as provided pursuant to §§ 22420.1 and 22420.2 of this Article 4, and codified under Chapter 13 of Division 4, Title 2, Guam Administrative Rules and Regulations shall be promulgated, and

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may be amended, pursuant to Article 3 - Rule Making Procedures, of Chapter 9, Division 1, Title 5, Guam Code Annotated.

SOURCE: Added by P.L. 32-085:6 (Nov. 27, 2013).

§ 22421. Transfer of Autonomous Agency Revenues to Autonomous Agency Collections Fund.

[Repealed.]

SOURCE: GC § 6127 added by P.L. 18-15:X:44. Amended by P.L. 24-14:3. Subsection (b) Repealed/Reenacted by P.L. 24-34:2. Repealed and Reenacted by P.L. 24-59:III:23. Repealed and Reenacted by P.L. 27-110:4. Repealed by P.L. 38-136:XII:56 (Aug. 28~~30~~, 2026).

§ 22422. Infrastructure Improvement Fund.

(a) There is created a fund known as the Infrastructure Improvement Fund which shall be accounted for separate and apart from the General Fund and into which shall be deposited such revenues as set forth in 11 GCA § 30108, Finance and Taxation. The fund shall be appropriated to improve and develop the general infrastructure of Guam including sewer and water systems, and primary and secondary roadways including village streets. No further appropriation shall be made of moneys in this Fund which have been pledged for the repaying of any debts and such moneys maybe used for such pledge without further appropriation.

(b) Notwithstanding any other provision of the law, the Infrastructure Improvement Fund shall be under the legislative purview of the legislative committee having oversight over the Tourist Attraction Fund.

SOURCE: Enacted by P.L. 19-5:142 as GC § 10002; amended by P.L. 19-18:2.

2018 NOTE: References to "Territory" removed and/or altered to "Guam" pursuant to 1 GCA § 420.

2013 NOTE: Subsection designations were added to adhere to the Compiler's alpha-numeric scheme in accordance to 1 GCA § 1606.

§ 22423. Retirement Contributions and Personnel Benefits Funds.

(a) Legislative Intent. The Legislature finds that amounts appropriated directly to Guam agencies for retirement benefits,

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and personnel benefits such as health insurance, life insurance, and dental insurance, are utilized for personnel expenses such as overtime pay, hazardous pay, holiday pay, limited term positions, and other categories if the funds are transferred, so that the actual expenses of the government of Guam for retirement, health insurance, life insurance, dental insurance, overtime, limited term positions, and other categories, is obscured in the budget process since the categories for which funds are appropriated are actually utilized for a different purpose than that which is stated. For this reason, two funds which are separate and distinct from any other funds of the government of Guam shall be utilized to better track the expenses of the government of Guam in these categories.

(b) Creation and Operation of Retirement Contributions Fund. There is created, separate and apart from any other funds of the government of Guam, and under the administration and control of the Department of Administration, the Retirement Contributions Fund. Notwithstanding any other provision of law, each fiscal year, all appropriations from the General Fund to any Guam agency for the purpose of paying retirement contributions shall be deposited in the Retirement Contributions Fund, and shall be paid out incrementally only as required by the actual expenses of the aggregate of the individual employees of the government who are currently employed at the time each payroll is prepared. A report of the status of the Retirement Contributions Fund shall be made to the Governor and to the Legislature at the end of each quarter. The funds in the Retirement Contributions Fund shall not be used for any other purpose than retirement contributions to be transmitted to the Government of Guam Retirement Fund. Within thirty (30 days after the end of each fiscal year, all funds in the Retirement Contributions Fund shall be paid over to the Government of Guam Retirement Fund to reduce the unfunded liability. A report of this transaction shall be made to the Legislature.

(c) Creation and Operation of Personnel Benefits Fund. There is created, separate and apart from any other funds of the government of Guam, and under the administration and control of the Department of Administration, the Personnel Benefits Fund. Notwithstanding any other provision of law, each fiscal year, all appropriations from the General Fund to any Guam agency for the

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purpose of paying medical insurance, life insurance, and dental insurance, shall be deposited in the Personnel Benefits Fund, and shall be paid out incrementally only as required by the actual expenses of the aggregate of the individual employees of the government who are currently employed at the time each payroll is prepared. A report of the status of the Personnel Benefits Fund shall be made to the Governor and to the Legislature at the end of each quarter. The funds in the Personnel Benefits Fund shall not be used for any other purpose than for medical insurance, life insurance, and dental insurance. Within thirty (30 days after the end of each fiscal year, all funds in the Personnel Benefits Fund shall be paid over to the Government of Guam Retirement Fund to reduce the unfunded liability. A report of this transaction shall be made to the Legislature.

SOURCE: Added by P.L. 21-136:IV:5.

2018 NOTE: References to "Territory" removed and/or altered to "Guam" pursuant to 1 GCA § 420.

§ 22424. General Obligation Bond for Capitol Building.

(a) Authorization of Issuance of General Obligation Bonds for Capitol Building. The Governor of Guam may be authorized to issue one (1) or more series of general obligation bonds of the government of Guam in an aggregate principal amount not to exceed Thirty Six Million Dollars ($36,000,000) to undertake the construction of a capitol building and paying expenses incurred in connection with the issuance of such bonds; provided, however, that the issuance of the bonds shall not cause a violation of the debt limitation provisions of 48 U.S.C. § 1423a (§ 11 of the Organic Act of Guam.)

(b) Terms and Conditions Determined by Certificate. The terms and conditions of the bonds shall be as determined by the Governor by the execution of a certificate authorizing the issuance of the bonds upon or prior to the issuance of the bonds; provided, however, that such terms and conditions shall be consistent with this Section, and that the bonds shall mature not later than December 1, 2024, and shall bear interest at such rates and be sold for such price or prices as shall result in a yield to the bondholders not exceeding ten percent (10%) per annum. The certificate of the Governor shall designate the amount of each maturity of bonds

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issued for construction of the capitol building but shall also permit reallocation and redesignation of such bonds.

(c) Valid and Binding General Obligation. Any bonds authorized by this Section shall constitute the valid and binding general obligations of the government of Guam. The government of Guam pledges its full faith and credit for the punctual payment of both principal of interest on the bonds. There shall be collected annually in the same manner and at the same time as government revenue for other purposes is collected, such sum as is required to pay the principal of and interest on the bonds. All officers charged by law with any duty in the collection of the revenues of the government shall do every lawful thing necessary to collect such sum. The validity of any such bonds shall not be affected by the validity or regularity of any proceedings for the implementation of the capital project funded by the bonds.

(d) Appropriations from the General Fund. There may be authorized to be appropriated from the General Fund such sums as will equal in each year the amount of money necessary to pay the principal and interest on such bonds.

(e) Additional Parity Bonds. Nothing in this Section shall be construed to prevent the government of Guam from issuing, after appropriate enabling legislation, other obligations of the government secured by the general obligation of the government on a parity with the bonds authorized by this Section.

(f) Waiver of Immunity. Notwithstanding any substantive or procedural provision of Chapter 6 of Title 5, Guam Code Annotated, the government of Guam waives immunity from any suit or action in contract on the bonds, but does not waive sovereign immunity as to the personal liability of elected officials and employees of the government of Guam.

(g) Form of Bonds; Covenants; Appointment of Fiduciaries. The technical form and language of the bonds, including provisions for execution, exchange, transfer, registration, paying agency, lost or mutilated bonds, negotiability, cancellation and other terms or conditions not inconsistent with this Section, including covenants relating to the collection of revenues, shall be as specified in the certificate executed by the Governor

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authorizing the issuance of the bonds. The certificate may appoint one (1) or more trustees, co-trustees or other fiduciaries authorized to receive and hold in trust the proceeds of the bonds and monies relating thereto, to protect the rights of bondholders and to perform such other duties as may be specified in the certificate. The Governor is also authorized to execute, on behalf of the government of Guam, any appropriate agreements, certificates or other instruments relating to the bonds and the sale of the bonds.

(h) Authorization for Credit Enhancement. The Governor may be authorized to enter into such contracts or agreements with such banks, insurance companies or other financial institutions as he determines are necessary or desirable to improve the security and marketability of the bonds issued under this Section. Such contracts or agreements may contain an obligation to reimburse, with interest, any such banks, insurance companies or other financial institutions for advances used to pay principal of or interest on the bonds. Any such reimbursement obligation shall be a general obligation of the government of Guam, and any such advance, if necessary, shall be treated as creating a reimbursement obligation issued to refund the bonds.

(i) Use of Proceeds from the Sale of the Bonds. Proceeds from the sale of the bonds may be used solely to construct and equip a capitol building, to establish necessary reserves, and to pay expenses relating to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, bonds insurance premiums, underwriting, legal and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings, fees and charges for execution, transportation and safekeeping of bonds and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds.

(j) No Personal Liability. No employee or elected official of the government of Guam shall be individually or personally liable for the payment of any amounts due on any bonds issued under this Section, or for any other liability arising in connection with the bonds; provided, however, that nothing in this Section shall

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relieve any employee or elected official from the performance of any ministerial duty required by law.

(k) Legislative Approval. No bonds may be issued under this Section without specific prior approval of the Legislature.

SOURCE: Added as § 22431 by P.L. 22-024:8 (8/31/93).

NOTE: Section 9 of P.L. 22-024 gives the following implementation provisions:

> Section 8 [§ 22424] of this Act shall take effect upon completion of the triennial property tax valuation now underway and a determination that the debt capacity of the government of Guam as limited under Section 11 of the Organic Act of Guam has increased by enough to allow issuance of the bonds for the Northern High School prior to issuance of the bonds for the capitol building.

§ 22425. General Obligation Bonds for Certain Capital Projects, Including Certain Educational Facilities Projects, and for Certain General Fund Expenses.

(a) Authorization of Issuance of General Obligation Bonds for Capital Projects and General Fund Expenses. The Governor of Guam is authorized to issue two (2) or more series of general obligation bonds of the government of Guam in an aggregate principal amount not to exceed Two Hundred Ninety-Six Million Dollars ($296,000,000) to undertake the capital projects enumerated in subsection (m) of this Section, to provide for the payment of the general fund expenses listed in subsection (m) of this section and to pay expenses incurred in connection with the issuance of such bonds; provided, however, that the issuance of the bonds shall not cause a violation of the debt limitation provisions of 48 U.S.C. 1423a (§ 11 of the Organic Act of Guam).

(b) Terms and Conditions Determined by Certificate. The terms and conditions of the bonds shall be as determined by the Governor by the execution of a certificate authorizing the issuance of the bonds upon or prior to the issuance of the bonds; provided, however, that such terms and conditions shall be consistent with this Section, and that the bonds shall mature not later than December 1, 2023 and shall bear interest at such rates and be sold for such price or prices as shall result in a yield to the bondholders not exceeding eight percent 8% per annum. The certificate of the

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Governor shall separately designate the amount of each maturity of bonds issued for each of the capital projects enumerated in subsection (m) of this Section and for general fund expenses, but shall also permit reallocation and redesignation of such bonds, with approval from the Legislature.

(c) Valid and Binding General Obligation. Any bonds authorized by this Section shall constitute the valid and binding general obligations of the government of Guam. The government of Guam pledges its full faith and credit for the punctual payment of both principal of and interest on the bonds. There shall be collected annually in the same manner and at the same time as government revenue for other purposes is collected, such sum as is required to pay the principal of and interest on the bonds. All officers charged by law with any duty in the collection of the revenues of the government shall do every lawful thing necessary to collect such sum. The validity of any such bonds shall not be affected by the validity or regularity of any proceedings for the implementation of the capital projects funded by the bonds or for the payment of the general fund expenses funded by the bonds.

(d) Appropriations from the General Fund. There are hereby appropriated from the General Fund such sums as will equal in each year the amount of money necessary to pay the principal and interest on such bonds.

(e) Additional Parity Bonds. Nothing in this Section shall be construed to prevent the government of Guam from issuing, after appropriate enabling legislation, other obligations of the government secured by the general obligation of the government on a parity with the bonds authorized by this Section.

(f) Waiver of Immunity. Notwithstanding any substantive or procedural provision of Chapter 6 of Title 5, Guam Code Annotated, the government of Guam waives immunity from any suit or action in contract on the bonds, but does not waive sovereign immunity as to the personal liability of elected officials and employees of the government of Guam.

(g) Form of Bonds; Covenants; Appointment of Fiduciaries. The technical form and language of the bonds, including provisions for execution, exchange, transfer, registration, paying

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agency, lost or mutilated bonds, negotiability, cancellation and other terms or conditions not inconsistent with this Section, including covenants relating to the collection of revenues, shall be as specified in the certificate executed by the Governor authorizing the issuance of the bonds. The certificate may appoint one (1) or more trustees, co-trustees or other fiduciaries authorized to receive and hold in trust the proceeds of the bonds and monies relating thereto, to protect the rights of bondholders and to perform such other duties as may be specified in the certificate. The Governor is also authorized to execute, on behalf of the government of Guam, any appropriate agreements, certificates or other instruments relating to the bonds and the sale of the bonds.

(h) Authorization for Credit Enhancement. The Governor is authorized to enter into such contracts or agreements with such banks, insurance companies or other financial institutions as he determines are necessary or desirable to improve the security and marketability of the bonds issued under this Section. Such contracts or agreements may contain an obligation to reimburse, with interest, any such banks, insurance companies or other financial institutions for advances used to pay principal of or interest on the bonds. Any such reimbursement obligation shall be a general obligation of the government of Guam, and any such adva2nce, if necessary, shall be treated as creating a reimbursement obligation issued to refund the bonds.

(i) Use of Proceeds from the Sale of the Bonds. Proceeds from the sale of the bonds shall be used solely to implement and equip the capital projects enumerated in subsection (m) of this Section, to pay general fund expenses listed in subsection (m) of this section and which are otherwise appropriated by the Legislature, to establish necessary reserves, and to pay expenses relating to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, bonds insurance premiums, underwriting, legal and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings, fees and charges for execution, transportation and safekeeping of bonds and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds. The fees charged by the

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Guam Economic Development Authority for this bond issuance shall be waived.

(j) No Personal Liability. No employee or elected official of the government of Guam shall be individually or personally liable for the payment of any amounts due on any bonds issued under this Section, or for any other liability arising in connection with the bonds; provided, however, that nothing in this Section shall relieve any employee or elected official from the performance of any ministerial duty required by law.

(k) University of Guam Bond Fund. There is hereby created, separate and apart from other funds of the government of Guam, a fund known as the "University of Guam Bond Fund" (the "UOG Bond Fund"). The UOG Bond Fund shall not be commingled with either the General Fund, the Current Fund of the University of Guam, or any other fund of the government of Guam. The UOG Bond Fund shall be held in an account or accounts at a Guam financial institution or institutions separate and apart from all other accounts and funds of the government of Guam. All tuition revenues received by or on behalf of the University of Guam shall be deposited in the UOG Bond Fund and shall be accounted for and used periodically only for the following purposes and in the following order:

(1) On a day when monies are remitted from the General Fund to any trustee, co-trustee or paying agent for the bonds to either pay the principal of and interest on the bonds issued for the capital project described in subsection (m) item (5) or to accumulate the amounts necessary to pay the principal of or interest on said bonds, there shall immediately be transferred from the University of Guam (UOG) Bond Fund to the General Fund an amount equal to, but not in excess of, the amount remitted from the General Fund. If the amount so transferred is not sufficient to fully reimburse the remittance, the amount of the deficiency shall be transferred immediately as it becomes available in the UOG Bond Fund, together with interest from the remittance date to the date of transfer at a rate equal to the yield on the bonds. Such transfers shall continue until November 15, 2018 or until a date mutually agreed upon by the University of Guam and *I Maga'lahen*

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Guåhan. Payments pursuant hereto made from the UOG Bond fund shall be adjusted downwards to reflect the interest rates of refinanced bonds if said interest rates are lower.

(2) On the dates on which monies are transferred to the General Fund pursuant to paragraph (1) of this subsection (k) of this Section, if such transfer is sufficient to fully reimburse the General Fund (with interest, if required), the balance remaining in the UOG Bond Fund shall be transferred to the Current Fund of the University of Guam to be utilized only to implement the Physical Master Plan of the University.

Such tuition revenue collections shall not be pledged to the payment of amounts due on the bonds, and this subsection (k) may be amended at any time by subsequent act of the Legislature. Nothing in this Section shall be construed to prevent the government of Guam from issuing, after appropriate enabling legislation, for the benefit of the University of Guam, other general obligations of the government secured by such tuition revenues on a parity with the bonds authorized by this Section. In addition, nothing in this Section shall be construed to prevent the University of Guam from issuing, after appropriate enabling legislation, revenue bonds or general obligations of the University of Guam secured by such tuition revenues on a parity with the bonds authorized by this Section.

(3) Notwithstanding Paragraphs (1) through (3) of this Subsection (k), if the Board of Regent of the University of Guam (University) elects to issue revenue bonds of the University pursuant to Chapter 17 of Title 17 of the Guam Code Annotated, tuition revenues received by or on behalf of the University may be pledged as a first priority to secure the payment of the obligations of the University with respect to the revenue bonds, and may be used to pay such obligations to create or replenish required reserves relating such revenue bonds, and to pay expenses directly related to the issuance and payment of such revenue bonds. In such event tuition revenues shall be deposited, used and applied as provided in the bond indenture, trust agreement or loan agreement relating to such revenue bonds.

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(l) Guam Educational Facilities Fund. There is continued in existence, separate and apart from other funds of the government of Guam, a fund known as the "Guam Educational Facilities Fund" (the GEF Fund). The GEF Fund shall not be commingled with the General Fund or any other fund of the government of Guam. The GEF Fund shall be held in an account or accounts at a Guam financial institution or institutions separate and apart from all other accounts and funds of the government of Guam. All real property tax revenues received by or on behalf of the government of Guam pursuant to § 24103, Title 11, Guam Code Annotated, shall be deposited in the GEF Fund and shall be accounted for and used periodically only for the following purposes and in the following order:

(1) On the dates on which monies are remitted from the General Fund to any trustee, co-trustee or paying agent for bonds issued pursuant to this Section or pursuant to § 22435, Chapter 22 of Title 5 Guam Code Annotated, for the purpose of either (A) paying the principal of and interest on the bonds designated as having been issued for the capital projects enumerated in items (1), (2), (3), (4), (6), (7) and (8) of subsection (m) of this Section, or paying the principal of and interest on the bonds issued pursuant to § 22435, Chapter 22 of Title 5 Guam Code Annotated, or (B) accumulating the amounts necessary to pay the principal of or interest on such bonds, there shall be transferred from the GEF Fund to the General Fund amounts equal to, but not in excess of, the amounts remitted from the General Fund for such purposes, and in the event that the amount so transferred on any such date is insufficient to fully reimburse the amount so remitted, the amount of the insufficiency shall be transferred as soon thereafter as it becomes available in the GEF Fund, together with interest from such remittance date to such date of transfer at a rate equal to the yield on the bonds.

(2) On the dates on which monies are transferred to the General Fund pursuant to paragraph (1) of this subsection (1) of this Section, if such transfer is sufficient to fully reimburse the General Fund, (with interest, if required), the balance remaining in the GEF Fund shall remain in the GEF Fund and shall only be appropriated by *I Liheslatura* for the purpose of

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constructing, refurbishing, replacing and funding educational facilities and to fund the operations of the Guam Community College.

Such tax collections shall not be pledged to the payment of amounts due on such bonds and this subsection (l) may be amended at any time by subsequent act of *I Liheslatura*. Nothing in this Section or § 22435 of Chapter 22 of Title 5 Guam Code Annotated shall be construed to prevent the government of Guam from issuing, after appropriate enabling legislation, for the benefit of the government of Guam, other general obligations or revenue obligations of the government secured by said real property tax revenues.

The repayment obligation of the University of Guam described Title 5 GCA § 22425 (k) shall continue.

(m) The capital projects to be implemented and equipped with the proceeds of the bonds authorized by this Section are as follows:

Capital Projects:		**Allocated Amounts:**
(1)	High school located in Santa Rita, Guam	$76,000,000;
(2)	Including a sewage treatment plant, infrastructure and off-site development, related to the high school in Santa Rita, Guam	$21,000,000;
(3)	Elementary school located in Tamuning, Guam	$15,000,000;
(4)	Elementary school located in Astumbo, Dededo, Guam	$15,000,000;
(5)	Buildings at the University of Guam as follows: College of Arts and Sciences Building; renovation and addition to the Health Science Building; Plant Maintenance Building; Building II for the College of Agriculture and Life	$28,000,000;

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Sciences; College of Business and Public Administration; Fine Arts Building; and the Student Center,

(6) For the purchase of equipment and furniture and the relocation expenses for students during construction of projects set out in items (1), (3) and (4) of this subsection (m), including temporary classrooms, $ 3,000,000;

(7) To the extent of any bond proceeds not required for the projects listed in Items (1) through (6) of this Subsection (m), any remaining balance other than the portions designated to be used for the Northern High School, or to pay General Fund expenses, may be applied to the cost of:

(A) repairing or reconstructing the Inarajan Elementary School;

(B) repairing or reconstructing the earthquake-damaged Ordot-Chalan Pago Elementary School;

(C) reconstructing the earthquake-damaged gymnasium and classrooms at Inarajan High School;

(D) repairing and reconstructing Upi Elementary School;

(E) repairing or reconstructing earthquake damage at any other school;

(F) design and construction of additional elementary schools in Guam, subject to Subsection (n) of this Section;

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(G) needed infrastructure improvements for schools;

(H) the completion of design plans for the Northern High School;

(I) the design, construction and renovation of facilities, and capital improvement projects on the existing campus of the Guam Community College not to exceed One Million One Hundred Thousand Dollars ($1,100,000);

(J) The Department of Education's ten percent (10%) local share, over and above the approved FEMA funding, for the architectural, engineering design, construction and repair of the Jose Rios Middle School (formerly Piti Middle School) from damage resulting from Super Typhoon Paka and to add an additional classroom for Special Education needs;

(K) Perform feasibility studies, pro forma cost projections and other documents necessary to justify and/or obtain financing/leasing of additional schools or education facilities;

(L) Replace two (2) classrooms destroyed by fire at L.P. Untalan Middle School;

(M) Repair, replace, and/or modify air conditioners and air conditioning electrical systems for schools and repair of water infrastructure at the school. The

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Department of Education shall evaluate the following options on a school-by-school basis: (1) the cost to repair the units and electrical systems, (2) the cost to replace the air conditioning systems with new systems, (3) the cost to install single units in each classroom, office or other enclosed facility, (4) the cost to add expansion units to existing systems, (5) any combination of the four (4) options herein and (6) the recurring cost to operate and maintain each of the four (4) options herein. The Department of Education shall conduct a public hearing at each affected school prior to engaging any firm to supply systems, parts, or perform repairs. Any system purchased herein shall comply with the comfort and air quality standards set forth for Heating, Ventilation and Air Conditioning (HVAC) equipment as provided for by Chapter 5 of the Federal GSA's Facilities Standards For Public Buildings Service (Revised November 2000 B PBS-P100); and

(N) The Superintendent of the Department of Education ("DOE"), in consultation with the Guam Education Policy Board ("Board") shall have the authority and flexibility to review, and if necessary, reprogram such funds appropriated herein to DOE, to

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meet the needs of DOE, for repair, renovation and upgrade of public school facilities.

(8) To the extent of any bond proceeds not required for the projects listed in Items (A) through (F) of this Subsection (m), any remaining balance, other than the portions designated to be used for the Northern High School or to pay general fund expenses, may be applied to the costs of:

(A) repairing or reconstructing the Inarajan Elementary School,

(B) repairing or reconstructing the earthquake damaged Ordot-Chalan Pago Elementary School,

(C) reconstructing the earthquake damaged gymnasium and classrooms at Inarajan High School,

(D) repairing or reconstructing Upi Elementary School,

(E) repairing or reconstructing earthquake damage at any other school,

(F) construction of additional elementary schools in northern Guam, subject to subsection (n) of this Section,

(G) needed infrastructure improvements for schools,

(H) the completion of design plans for the Northern High School, or

(I) other projects approved by subsequent legislation.

(9) The aggregate principal amount of bonds authorized to be issued to

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provide for the payment of general fund expenses is One Hundred Fifteen Million Dollars ($115,000,000), the proceeds of which to be used exclusively for the purposes outlined below. The general fund expenses authorized to be paid with the proceeds of such bonds are income tax refund payments, supplemental retirement payments, transfer payments to governmental agencies, and vendor payments, but in each case only to the extent such expenses have been incurred or previously obligated by the government for goods, services, and obligations rendered, received, or incurred prior to May 15, 1995.

(n) Uniform Design of Projects. In utilizing the bond proceeds authorized by projects set out in items (3) and (4) of subsection (m) of this Section, in order to optimize funds and not replicate services, a standard and uniform design for all elementary schools, shall be employed in their construction, unless the topography and size of the land for such a school prevents the use of such a standard and uniform design. Such standard and uniform designs shall be as energy efficient as is practical, and shall conform to island styles.

(o) Head Start Classrooms. The elementary schools described in items (3) and (4) of subsection (m) of this Section and whose construction is to be funded by this Act shall include a minimum of five (5) "Head Start" classrooms at each school.

(p) Selection of Participants. In view of the urgency for the issuance of the bonds for the purpose of financing general fund expenses and for the infrastructure related to the high school located in Santa Rita, the Governor is hereby authorized to utilize such method as he deems appropriate for the selection of all

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participants in connection with the issuance and sale of those bonds, including trustees, depositories, paying agents, underwriters, counsel, any credit enhancement provider and any other participants; provided, however, that such selection shall be subject to any provision of law which requires bidding, other competitive process, or any other procedure with respect to such selection, except that the Governor may limit the requests for proposals for services associated with the issuance of the bonds to those firms that have previously participated in bond issues for Guam.

(q) Notwithstanding any other provision of law, any additional real property tax revenues received as a result of the most recent valuation of real property due to commence during the calendar years 2013 and 2014 is hereby continuously reserved, subject to annual appropriation, in an amount not to exceed Eight Million Five Hundred Thousand Dollars ($8,500,000), from the Guam Educational Facilities Fund in the amounts and for the purposes set forth in this Subsection:

(1) The sum of One Million One Hundred Fifty-Eight Thousand Two Hundred Eighty-Three Dollars ($1,158,283), beginning in FY 2015, for the construction of the Student Services Center and the Engineering Annex facility at the University of Guam, as a source of payment to the University of Guam Capital Improvements Fund for the purpose of paying rental payments due under the lease-leaseback agreements with the University of Guam Endowment Foundation for a term of forty (~~40~~) years; including any lease-leaseback agreements entered into in connection with the interim financing;

(2) The sum of Two Hundred Seventy-eight Thousand Nine Hundred Twenty-one Dollars and Fifty-two Cents ($278,921.52), beginning in FY 2014 for forty (40) years, for the construction or renovation of Building 100 and the DNA Laboratory at the Guam Community College;

(3) The sum of One Hundred Thirty-two Thousand Fifteen Dollars ($132,015) to the Guam Public Library System to hire a Guam Librarian at Ninety-three Thousand Three Hundred Seventy-seven Dollars ($93,377), and a

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Computer Analyst II at Thirty-eight Thousand Six Hundred Thirty-eight Dollars ($38,638);

(4) The sum of One Million Seven Hundred Seven Thousand Six Hundred Fifty-two Dollars ($1,707,652) to the Guam Department of Education for the renovation or construction of a new Simon Sanchez High School.

(5) The sum of One Million Two Hundred Thousand Dollars ($1,200,000) for rental payments under the lease and the lease-back as described in Chapter 58D of Title 5, Guam Code Annotated.

(6) other than the portions designated to be used for in Items (1), (2), (3), (4) and (5) of this Subsection, eighty percent (80%) of the remaining balance for rental payments due under the lease-leaseback agreement with GDOE secured for the renovation or construction of a new Simon Sanchez High School, to include its athletic facilities, and other Guam Department of Education public school facilities requiring new construction, rehabilitation or maintenance;

(7) Early Childhood Program Fund. There is hereby created, separate and apart from all other funds of the government of Guam, a fund known as the "Early Childhood Program Fund." All monies received by or on behalf of the government of Guam pursuant to § 22425(q)(8) of Title 5 GCA, *shall* be deposited in the Fund and used for early childhood programs at the University of Guam, the Guam Community College, or the Guam Department of Education. The Fund *shall not* be commingled with the General Fund or any other funds of the government of Guam, and it *shall* be maintained in a separate bank account. All monies in the Fund *shall* require legislative appropriation, and *shall not* be subject to any transfer authority of *I Maga'lahen Guåhan*.

(8) other than the portions designated to be used for in Items (1), (2), (3), (4) and (5) of this Subsection, 3.5% of the remaining balance for the Early Childhood Program Fund, as described in § 53101 of Title 17, Guam Code Annotated;

(9) other than the portions designated to be used for in Items (1), (2), (3), (4) and (5) of this Subsection, 3.5 % of the

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remaining balance for *I Famagu'on-ta*, Child Adolescent Services Division of the Guam Behavioral Health and Wellness Center, and Project *Karinu*. These funds *shall not* be subject to *I Maga'lahen Guåhan's* transfer authority.

(10) other than the portions designated to be used for in Items (1), (2), (3) (4) and (5) of this Subsection, five percent (5%) of the remaining balance to the Department of Revenue and Taxation for the following:

(A) for maintenance support and sustainability of real property data and system;

(B) for the five (5) year (quinquennial) property tax revaluation as mandated by law;

(C) for enhancements, and technological advancements related to software/hardware, and support staff necessary to improve electronic services; and

(D) for other costs directly associated with improving the efficiency of the real property tax system.

The Director of the Department of Revenue and Taxation *shall* submit a report to *I Maga'lahen Guåhan* and *I Liheslaturan Guåhan* on a monthly basis as to the expenditures of the funds following the enactment of this Act, detailing all transactions;

(11) other than the portions designated to be used for in Items (1), (2), (3), (4) and (5) of this Subsection, five percent (5%) of the remaining balance *shall* be lock boxed for the procurement of a unified financial management information system, as recommended by consensus from the Department of Revenue and Taxation, the Department of Administration, the General Services Agency, the Office of Public Accountability, the Office of Technology, the University of Guam, the Guam Community College, the Guam Department of Education, and Guam Memorial Hospital Authority. This amount shall be subject to legislative appropriation.

(12) Other than the portions designated to be used for in Items (1), (2) (3) (4) and (5) of this Subsection, three percent (3%) of the remaining balance *shall* be a source of funding

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for island-wide school bus shelters. The Director of the Department of Public Works *shall* submit a report to *I Maga'lahen Guåhan* and *I Liheslaturan Guåhan* on a monthly basis as to the expenditures of the funds following enactment of this Act, detailing all transactions.

(r) It is the policy of the Guam Legislature to ensure that the projects enumerated in Subsection (m) of this Section are completed. In this respect, the Guam Legislature gives its consent and authorization to allow the transfer of funds between projects contained in Subsection (m), Items 1, 2, 3, 4, 6, 7 and 9. The Guam Legislature shall be notified in writing prior to any transfer. This Subsection shall take effect immediately.

(s) Interest earned on the bonds authorized by this Section shall be used exclusively for the projects enumerated in Subsection (m) of this Section.

(t) Authorization of Issuance of General Obligation Loans for the Dededo Precinct and Crime Lab of the Guam Police Department. *I Maga'lahen Guåhan* is authorized to borrow one (1) or more general obligation loans of the government of Guam in the aggregate principal amount not to exceed Seven Million Dollars ($7,000,000) to undertake the cost of the design, plans and construction of the Dededo Police Precinct at a cost not to exceed One Million Dollars ($1,000,000.00), and the cost of the design, plans and construction of the Crime Lab at a cost not to exceed Six Million Dollars ($6,000,000), and paying expenses incurred in connection with the issuance and closing of such loans; provided, however, that the incurring of the loans shall not cause a violation of the debt limitations provision of Title 48 U.S.C. § 1423a (§ 11 of the Organic Act of Guam).

(1) Terms and Conditions Determined by Certificate. The terms and conditions of the loans shall be determined by *I Maga'lahen Guåhan* by the execution of a certificate authorizing the incurring of the loans upon the incurring of the loans; provided, however, that such terms and conditions shall be consistent with this Subsection, and that the loans shall mature not later than December 31, 2013 and shall bear interest at such rates as shall result in a yield to the lending institutions not exceeding nine (9%) percent per annum.

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(2) Valid and Binding General Obligation. Any loan or loans authorized by this Section shall constitute the valid and binding general obligation of the government of Guam. The government of Guam pledges its full faith and credit for the punctual payment of both principal of and interest on the loans. There shall be collected annually in the same manner and at the same time as government revenue for other purposes is collected, such sum as is required to pay the principal of and interest on the loans. All officers charged by law with any duty in the collection of the revenues of the government shall do every lawful thing necessary to collect such sum. The validity of any such loans shall not be affected by the validity or regularity of any proceedings for the implementation of the capital projects funded by the loans.

(3) Appropriations from the General Fund. There are hereby appropriated from the General Fund such sums as will equal in each year the amount of money necessary to pay the principal and interest of such loans.

(4) Additional Parity Loans. Nothing in this Section shall be construed to prevent the government of Guam from issuing, after appropriate enabling legislation, other obligations of the government secured by the general obligation of the government on a parity with the loans authorized by this Subsection.

(5) Waiver of Immunity. Notwithstanding any substantive or procedural provision of Chapter 6 of Title 5 of the Guam Code Annotated, the government of Guam waives immunity from any suit or action in contract on the loans, but does not waive sovereign immunity as to the personal liability of elected officials and employees of the government of Guam.

(6) No Personal Liability. No employee or elected official of the government of Guam shall be individually or personally liable for the payment of any amounts due on any loans granted under this Subsection, or for any other liability arising in connection with the loans; provided, however, that nothing in this Subsection shall relieve any employee or

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elected official from the performance of any ministerial duty required by law.

(7) Guam Police Department Loan Fund. There is hereby created, separate and apart from other funds of the government of Guam, a fund known as the 'Guam Police Department Loan Fund' ('GPD Loan Fund'). The GPD Loan Fund shall not be commingled with either the General Fund or any other fund of the government of Guam. The GPD Loan Fund shall be held in an account or accounts at a Guam financial institution or institutions separate and apart from all other accounts or funds of the government of Guam. Annually, on or before the date payments of the principal and interest on the loan or loans are to become due, the Director of the Department of Administration shall transfer from the GPD Police Services Fund and deposit in the GPD Loan Fund the amounts necessary for the complete payment of the principal and interest then due. In the event the funds transferred from the GPD Police Services Fund is found to be insufficient, the Superior Court of Guam shall transfer from the Superior Court of Guam Building Fund and deposit in the GPD Loan Fund One Hundred Thousand Dollars ($100,000.00) annually, on or before the date payments of the principal and interest on the loan or loans are to become due, to supplement the amounts necessary for the complete payment of the principal and interest then due. If the funds transferred from the GPD Police Services Fund is sufficient for the complete payment of the principal and interest on the loan or loans, then the One Hundred Thousand Dollars ($100,000.00) transferred from the Superior Court of Guam shall be expended by GPD on cost of crime fighting equipment and training. All transfers of revenues from the GPD Police Services Fund and the Superior Court of Guam and received by or on behalf of the Guam Police Department shall be deposited in the GPD Loan Fund and shall be accounted for and used periodically only for the following purpose:

(A) on the dates on which monies are remitted from the General Fund to any lending institution for the purpose of paying the principal and interest due on the

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loans authorized in this Subsection of this Section, there shall be transferred from the GPD Loan Fund to the General Fund amounts equal to, but not in excess of, the amounts remitted from the General Fund for such purposes.

SOURCE: Added by P.L. 22-019:2 (June 18, 1993), and amended by P.L. 23-014:2 (May 13, 1995). Subsection (m)(7) repealed/reenacted by P.L. 24-025:1 (May 15, 1997), P.L. 24-059:III:3(e) (Sept. 12, 1997), and by P.L. 25-25:1; amended by P.L. 27-033:2 (Oct. 31, 2003). Subsection (r) added by P.L. 24-025:2 (May 15, 1997), and repealed and reenacted by P.L. 24-059:III:3(f) (Sept. 12, 1997). Subsection (s) added by P.L. 24-025:3 (May 15, 1997). Subsection (k)(3) added by P.L. 24-312:5 (Dec. 23, 1998) as subsection (k)(4), codified to this subsection by the Compiler. Subsection (t) added by P.L. 24-243:2 (Aug. 14, 1998). Subsection (l) amended by P.L. 28-068:II:I:39 (Sept. 30, 2005), and P.L. 28-149:II:VII:3 (Sept. 30, 2006). P.L. 29-002:VI:33 (May 18, 2007) repealed P.L. 28-149:II:VII, therefore subsection (l) reverted to the state it was in prior to P.L. 28-149, and amended by P.L. 29-019:VIII:2 (Sept. 29, 2007). Subsection (l)(2) amended by P.L. 28-068:II:I:39 (Sept. 30, 2005). Subsection (k)(1) amended by P.L. 29-019:VII:11 (Sept. 27, 2007). Subsection (q) amended by P.L. 32-063:3 (Aug. 30, 2013) and P.L. 32-120:3 (Feb. 10, 2014). Subsection (q), excluding (1) through (12), amended by P.L. 33-029:4 (May 7, 2015). Subsection (q)(7) added by P.L. 32-063:4 (Aug. 30, 2013). Subsection (q), and (q)(1) amended by P.L. 33-092:5 (Nov. 9, 2015).

2018 NOTE: References to "Territorial" removed and/or altered to "Guam" and references to the "TEF Fund" (Territorial Educational Facilities Fund) altered to the "GEF Fund" (Guam Educational Facilities Fund), pursuant to 1 GCA § 420.

2014 NOTE: P.L. 32-063:4 added 17 GCA § 53101, which was codified by the Compiler as 5 GCA § 22425(q)(7) because the subject matter fits more appropriately within Article 4 of this chapter. Subsection designations for subsection (q)(7-9) as amended by P.L.32-120:4 were renumbered to (q)(8-10) to adhere to the Compiler's alpha-numeric scheme in accordance with the authority granted by 1 GCA § 1606.

2013 NOTE: Subsection designations in subsections (m)(7-8) and (t)(7) were altered in accordance with the authority granted by 1 GCA § 1606.

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 to the Department of Education.

§ 22426. Conflict of Interest.

(a) Notwithstanding any provision of law to the contrary whenever an Authority of the government sells bonds at a private

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sale, no person standing in a fiduciary relationship with the Authority shall purchase any of the bonds.

(b) As used in this Section, person means a natural person, corporation, partnership, trust or the employer of a natural person.

(c) If the provisions of this Section are violated then the sale of the bonds to the violating person shall be deemed null and void ab initio.

(d) Bonds unsold at bona fide public offerings can be held by the underwriters at the bona fide public offering prices, less the underwriter's discount.

SOURCE: Added by P.L. 15-15:5. Subsection (d) added by P.L. 22-19:8.

§ 22427. Government of Guam Loan.

(a) Authorization to Borrow. The Governor of Guam, on behalf of the government of Guam, is authorized to borrow an aggregate principal amount not to exceed Fifty-Two Million Nine Hundred Dollars ($52,900,000) to undertake the capital projects enumerated in subsection (g) of this Section; provided, however, that incurring this indebtedness shall not cause a violation of the debt limitation provisions of 48 U.S.C. § 1423(a). The debt may be incurred and the proceeds expended for the purpose of allowing the government of Guam to pay for the cost of arranging the loan and for the purposes described herein.

(b) Terms and Conditions Determined by Loan Agreement. The terms and conditions of the loan shall be as determined by the Governor by the execution of a loan agreement authorizing the loan. The loan agreement shall contain such terms and conditions as are consistent with this Section. The terms of the loan shall include the following:

(1) The loan shall be used by the Governor for the purposes stated herein;

(2) Prepaid charges shall not be levied by the bank or trust department extending the loan;

(3) The interest rate shall be subject to competitive negotiations between the Governor and the banks.

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(4) Interest derived from the loan shall be exempt from taxation by the government of Guam.

(5) All terms of the loan agreement not specifically defined in the foregoing shall be negotiated by the Governor in the best interest of the people of Guam.

(6) The duration for the repayment of the loan shall be as negotiated by the Governor, but shall not exceed twenty (20) years.

(7) The loan shall be arranged with any bank or commercial lending institution licensed on Guam; provided, however, anything to the contrary in this Section notwithstanding, or any other provision of law, that the terms of the loan arranged by the Governor as provided by this Section, may permit the bank or commercial lending institution licensed on Guam with which such loan is arranged, to grant participation in such loan, at such times and in such amounts and upon such terms and conditions as such bank or lending institution licensed in Guam shall determine, to other banks, or commercial lending institutions, or to any other persons, associations, or corporations. The exemptions from taxation by the government of Guam of the interest derived from the loan shall be preserved to any such participant.

(c) Appropriation from the Tourist Attraction Fund. There is hereby appropriated from the unencumbered balances of the Tourist Attraction Fund, notwithstanding anything in 11 GCA § 30107 to the contrary, such sums as will equal in each year the amount of money necessary to pay the principal of and interest on such loan.

(d) Waiver of Immunity. Notwithstanding any substantive or procedural provisions of Chapter 6 of Title 5, Guam Code Annotated, the government of Guam waives immunity from any suit or action in contract on the loan but does not waive sovereign immunity as to the personal liability of elected officials and employees of the government of Guam.

(e) Form of Loan; Covenants. The technical form and language of the loan, including provisions for execution,

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exchange, transfer, negotiability, cancellation or other terms or conditions not inconsistent with this Section, shall be as specified in the loan agreement executed by the Governor evidencing the loan. The Governor is also authorized to execute, on behalf of the government of Guam, any appropriate agreements or other instruments relating to the loan.

(f) Bond Issue Rollover. The language of the loan agreement shall include provisions to permit the loan to be rolled over into a bond issue supported by the Tourist Attraction Fund. The Governor is urged to obtain a repayment schedule that will provide for interest-only payments until the loan is so rolled over.

(g) Use of Loan Proceeds. The proceeds from the loan shall be used solely to implement and equip the capital projects enumerated herein and to pay expenses relating to the arrangement of the loan. The capital projects to be implemented and equipped with the proceeds of the loan authorized by this Section are as follows:

	Capital Projects	**Allocated Amounts**
(1)	For Tumon Fafai Reversion Project,	
	(A) For the acquisition and construction of the Gun Beach – Fafai Wastewater System	$8,400,000
	(B) For design and construction of the Tumon Pump Station and Force main	$3,600,000
	(C) For the refurbishment of the Northern District Sewage Treatment Plant	$1,800,000
	(D) For the refurbishment of the Agana Sewage Treatment Plant	$2,000,000

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(2)	For Oka Point Collector System Project	
	(A) For design and construction of the Oka Point collector lines	$2,000,000
(3)	For Tumon Water Lines	
	(A) For design and construction of waterlines	$4,200,000
(4)	For Tumon Water Sources	
	(A) For drilling and construction	$5,800,000
(5)	Tumon Bay Beautification	
	(A) Streets & Sidewalks for medians, crosswalks and intersections, beach access, sidewalks and curbs, street furniture for benches, trash containers, signage, shelters, street lights and traffic lighting, enhancements for Governor Flores and Matapang Beach Parks	$7,200,000
	(B) Landscaping for medians, road edge strips, entry points from San Vitores Boulevard to beach access	$3,900,000
	(C) Services undergrounding for ocean side power lines and cables, clutter, removal of guy wires, and signage consolidations	$4,500,000

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(D) Design and management fees for design development, construction documentation, permitting, and construction management	$1,600,000
(E) Allowances for roadway repairs and restoration, resurfacing of San Vitores Boulevard, off-site infrastructure work, and related work	$5,000,000
(F) Of the approximately ten percent (10%) savings anticipated in carrying out the foregoing projects because of various duplications, Three Million Five Hundred Thousand Dollars ($3,500,000) are set aside for	
constructing the Tumon Bay Storm Drainage System.	
(G) Construction of the San Vitores substation and transmission lines by the Guam Power Authority in the Tumon Bay area.	$5,900,000

(h) Selection of Bank. In view of the urgency for the arrangement of the loan pursuant to this Section, subject to terms and conditions as outlined in this Act, the Governor is hereby authorized to utilize such method as he deems appropriate for the selection of the bank or banks in connection with the arrangement of the loan.

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(i) Approval of GEDA. Section 2103(k) of Title 12, Guam Code Annotated, provides that agencies and instrumentalities of the government of Guam shall issue obligations only by means of and through the agency of the Guam Economic Development Authority ("GEDA"), and that GEDA shall not sell any obligation without the approval of the legislature of the terms and conditions of the issuance of the obligations. In view of the urgency for the arrangement of the loan pursuant to this Section, the original direct loan authorized hereunder is exempted from the requirement of said Section 2103(k), but on the rollover of such loan into a bond issue the section will fully apply.

(j) Approval of the Legislature. This Legislature, pursuant to this section and pursuant to subsection 2103(k), Title 12, Guam Code Annotated, hereby approves the loan of the government of Guam in the principal amount not to exceed Fifty-Two Million Nine Hundred Dollars ($52,900,000) as authorized by this Act; provided, that the terms of the loan are not inconsistent with this Act.

> **2012 NOTE:** In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections beginning with "Lowercase Roman Numerals" to "Numbers" in subsection (b) and subsections beginning with "Numbers" to "Uppercase Letters" in subsection (g).

§ 22428. Utility Expense Fund.

There is created, separate and apart from other funds of the government of Guam, and under the administration and control of the Department of Administration, the 'Utility Expense Fund.' Notwithstanding any other provisions of law, for each fiscal year, all appropriations from the General Fund to any Guam agency for the purpose of paying utility expenses for electrical power, water, sewer and telephone services, shall be deposited in the Utility Expense Fund, and shall be paid out separately by utility category and by the aggregate expenses of agency billings. A report of the status of the Utility Expense Fund shall be made to the Governor and to the Guam Legislature at the end of each quarter. Unexpended funds after the end of each fiscal year shall revert to the General Fund. A report of this transaction shall be made to the Guam Legislature.

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2018 NOTE: References to "Territory" and "territorial" removed and/or altered to "Guam" pursuant to 1 GCA § 420.

NOTE: Public Law 24-57:2 creates a new Section 22427 to Title 5, Guam Code Annotated called the "Utility Expense Fund". But according to the Compiler another Public Law, specifically P.L. 23-137:2 also added another § 22427 called the "Government of Guam Loan". The Compiler has then recodified Section 22427 (created by P.L. 24-57) as Section 22428. Renumbered by Compiler to reflect correct citation.

§ 22429. Authorization and Approval of Refunding Bonds.

(a) Definitions. The following terms shall have the following meanings when used in this Section:

(1) 1989 Water Bonds means the Government of Guam Water System Revenue Bonds, Series 1989.

(2) 1992 Highway Bonds means the Government of Guam Limited Obligation Highway Bonds, 1992 Series A.

(3) Prior Bonds means the 1989 water bonds and the 1992 highway bonds, to be redeemed or otherwise retired with the proceeds of refunding bonds and investment earnings thereon.

(4) Refunding Bond means a bond issued pursuant to this Section for the purpose of providing moneys to redeem and otherwise retire prior bonds, funding any necessary bond reserves and capitalized interest allocable to the refunding bonds and paying expenses incurred in connection with the issuance of such refunding bonds.

(5) Yield shall have the same meaning as when used in § 148 of the Internal Revenue Code of 1986, as amended. That is, 'yield' means the annual discount rate which, when used to discount all payments of debt service on an issue of bonds to the date of issuance of the bonds, using a semiannual compounding interval, results in the aggregate present value of such payments being equal to the re-offering price to the public of such bonds.

(6) Debt service means the scheduled principal of and interest on bonds plus fees to be paid for credit enhancement of such bonds.

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(7) Debt Service Savings means the percentage by which the present value of debt service on refunding bonds, not including capitalized interest, is less than the present value of the remaining debt service on the prior bonds refunded by such refunding bonds. Present value shall be calculated for this purpose using the yield on the refunding bonds as the discount rate.

(8) 1986 Bonds means the Government of Guam General Obligation Bonds, Series 1986, that are no longer outstanding.

(9) Section 30 Revenues means the revenues derived by the government of Guam under 48 U.S.C. § 1421h (§ 30 of the Organic Act of Guam).

(b) Authorization of Issuance of Bonds. *I Maga'lahen Guåhan* is authorized to issue on behalf of the government of Guam one (1) or more issues of bonds of the government consisting of refunding bonds, subject to the following requirements and limitations:

(1) the issuance of the bonds shall not cause a violation of the debt limitation provisions of 48 U.S.C. § 1423a (§ 11 of the Organic Act of Guam);

(2) all obligation of the government to pay debt service on, and the redemption price of, the prior bonds being refunded shall be discharged concurrently with the issuance of the refunding bonds. Thereafter, the prior bonds shall be payable solely from and secured solely by an escrow established for such purpose;

(3) the debt service savings resulting from the issuance of the refunding bonds shall be not less than three percent (3%);

(4) the aggregate amount of scheduled debt service on the refunding bonds allocable to the refunding of the 1989 water bonds shall be, in each year to and including the final maturity of such refunding bonds, less than the maximum annual scheduled debt service on the 1989 water bonds, and the final scheduled maturity date of such refunding bonds

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shall be not more than five (5) years after the final scheduled maturity date of the 1989 water bonds; and

(5) the aggregate amount of scheduled debt service on the refunding bonds allocable to the refunding of the 1992 highway bonds shall be, in each year to and including the final maturity of such refunding bonds, less than the maximum annual scheduled debt service on the 1992 highway bonds, and the final scheduled maturity date of such refunding bonds shall be not more than five (5) years after the final scheduled maturity date of the 1992 highway bonds.

(c) Source of and Security for Payment. The refunding bonds shall be payable from and secured by the same source or sources of revenues as the prior bonds refunded by the issue. Any pledge or lien on revenues or other moneys authorized to be granted with respect to the prior bonds refunded by the issue is hereby authorized to be granted with respect to the refunding bonds. *I Liheslaturan Guåhan* hereby finds and declares that it is the policy of the government of Guam that § 30 Revenues shall be and remain the primary source of payment of any bonds issued to refund the 1989 water bonds.

(d) Terms and Conditions Determined by Certificate. The terms and conditions of the refunding bonds shall be as determined by *I Maga'lahen Guåhan* by the execution of a certificate or indenture authorizing the issuance of such bonds. The certificate or indenture shall contain terms and conditions that are consistent with this Section, and shall include substantially the same additional bond tests, rate covenants and other covenants as were applicable with respect to the prior bonds. The proceeds of the refunding bonds may be used to fund a bond reserve only if and to the extent that moneys from any bond reserve for the prior issue are transferred to the escrow from which the prior bonds will be paid. Interest on the refunding bonds may be capitalized for a period not exceeding fifteen (15) months.

(e) Valid and Binding Obligations, Collection of Revenues. The bonds authorized by this Section shall constitute the valid and binding obligations of the government of Guam. All officers charged by law with any duty in the collection of any revenues from which debt service on the issue is payable shall do every

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lawful thing necessary to collect the amount necessary for such purpose. The validity of any such bonds shall not be affected by the validity or regularity of any proceedings for the implementation of the capital improvement projects funded by the prior bonds.

(f) Appropriation. The revenues described in Subsection (c) of this Section are hereby continuously appropriated for the purposes for which they are pledged.

(g) Waiver of Immunity. Notwithstanding any substantive or procedural provision of Chapter 6 of Title 5 of the Guam Code Annotated, the government of Guam waives immunity from any suit or action in contract on the bonds authorized by this Section, but does not waive sovereign immunity as to the personal liability of elected officials and employees of the government of Guam.

(h) Form of Bonds; Covenants; Appointment of Fiduciaries; Other Related Agreements. The technical form and language of the refunding bonds, including provisions for execution, exchange, transfer, registration, paying agency, lost or mutilated bonds, negotiability, cancellation and other terms, covenants or conditions not inconsistent with this Section, shall be as specified in the certificate or indenture executed by *I Maga'lahen Guåhan* authorizing the issuance of the bonds. The certificate or indenture may appoint one (1) or more trustees or other fiduciaries authorized to receive and hold in trust the proceeds of the bonds and moneys relating thereto, to protect the rights of bondholders and to perform such other duties as may be specified in the certificate. *I Maga'lahen Guåhan* is also authorized to execute, on behalf of the government of Guam, any appropriate agreements, certificates or other instruments relating to the bonds and the sale of the bonds, including, but limited to, an agreement, certificate or instrument subordinating the pledge of revenues securing any other debt to the pledge of revenues securing the refunding bonds.

(i) Authorization for Credit Enhancement. *I Maga'lahen Guåhan* is authorized to enter into such contracts or agreements with such banks, insurance companies or other financial institutions as *I Maga'lahen Guåhan* determines are necessary or desirable to improve the security and marketability of any bonds authorized by this Section. Such contracts or agreements may

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contain an obligation to reimburse, with interest, any such banks, insurance companies or other financial institutions for advances used to pay principal of or interest on the issue. Any obligations under such contract or agreement shall be payable solely from the same sources as debt service on the refunding bonds is payable, and any advance under such agreement, if necessary, shall be treated as creating a reimbursement obligation issued to refund the refunding bonds.

(j) No Personal Liability. No employee or elected official of the government of Guam shall be individually or personally liable for the payment of any amounts due on any bonds issued under this Section, or for any other liability arising in connection with the bonds; provided, however, that nothing in this Section shall relieve any employee or elected official from the performance of any ministerial duty required by law.

(k) Approval by Guam Economic Development Authority. Section 50103(k) of Title 12 of the Guam Code Annotated, provides that agencies and instrumentalities of the government of Guam shall issue bonds and other obligations only by means of and through the agency of the Guam Economic Development Authority ('GEDA'). No issue of bonds authorized by this Section shall be sold until the board of directors of GEDA has adopted a resolution approving the sale of such issue.

(l) Approval of Terms and Conditions. Said § 50103(k) also provides that GEDA shall not sell any bond without the approval of *I Liheslaturan Guåhan* of the terms and conditions of the issuance of the bonds. *I Liheslaturan Guåhan* hereby approves the terms and conditions of the issuance of the bonds authorized by this Section, so long as such bonds are structured as provided by this Act and achieve the savings required by this Act. Upon issuance of bonds to refund the 1989 water bonds, § 30 Revenues and other funds held in the bond account for the 1989 water bonds shall be released pursuant to this Act.

(m) Approval by Guam Public Utilities Commission Not Required. Section 12004 of Title 12 of the Guam Code Annotated provides that the Guam Waterworks Authority ('GWA') shall not enter into any contractual agreements or obligations which could increase rates and charges prior to the written approval of the

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Public Utilities Commission. Because debt service on the refunding bonds issued to refund the 1989 water bonds is expected to be paid from § 30 Revenues and not from GWA revenues, and because the refunding bond indenture provisions relating to GWA revenues are to be substantially the same as such provisions in the 1989 water bond indenture, the entry by GWA into the refunding bond indenture is hereby deemed not to increase rates and charges in and of itself, is hereby authorized and approved, and shall not be required to be approved by the Guam Public Utilities Commission.

(n) Variable Rate Bonds and Interest Rate Hedges. Refunding bonds issued to refund the 1989 water bonds may be issued as bonds bearing interest at a variable rate, and *I Maga'lahen Guåhan* is authorized to enter into one (1) or more interest rate hedging contracts, including, but not limited to, arrangements commonly known as swap agreements, floors, caps and collars, which *I Maga'lahen Guåhan* determines to be necessary or appropriate to place the obligations of the government of Guam, as represented by the refunding bonds and such interest rate hedging contracts, on a basis other than a fully variable rate basis, but only under the following terms and conditions, which are applicable in such circumstances in lieu of the requirements of Paragraphs (3) and (4) of Subsection (b) of this Section:

(1) the initial interest rate hedging contracts, if any must have an aggregate term of not less than two (2) years;

(2) each year over the longer of the first five (5) years after the date of issuance of the bonds or the term of any initial interest rate hedging contracts, the maximum net annual obligation of the government, as represented by the refunding bonds and such interest rate hedging contracts, must be expected, on the basis of the prior ten (10) years experience with comparable bonds and interest rate hedging contracts, not to exceed the annual obligation that the government would have had if the refunding bonds had been issued as fixed-rate, current-interest bonds meeting the criteria of Paragraphs (3) and (4) of Subsection (b) of this Section;

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(3) the aggregate principal amount of refunding bonds outstanding at the later of the end of the first five (5) years after the date of issuance of the bonds or the end of the term of any initial interest rate hedging contracts may not exceed the aggregate principal amount of refunding bonds that would have been outstanding had the refunding bonds been issued as fixed-rate, current-interest bonds meeting the requirements of Paragraphs (3) and (4) of Subsection (b) of this Section;

(4) the final scheduled maturity date of such refunding bonds shall be not more than five (5) years after the final scheduled maturity date of the 1989 water bonds; and

(5) upon any conversion of the variable rate refunding bonds to fixed rate, any period during which the fixed rate bonds are not subject to optional redemption shall be less than one and one-half (1.5) years.

(o) Permitted Investments. The proceeds of bonds issued by the government, and any revenues relating to such bonds, may be invested in, but only in, the types of investments permitted by the certificate or indenture pursuant to which such bonds are issued.

SOURCE: Added by P.L. 25-003:IV:29.. Amended by P.L. 25-115:1.

§ 22430. Source of Payment for Government Notices/Website Required.

(a) Any website, public notice, advertisement or message issued or published by an agency, or agencies, and paid for, partially or fully, using government funds shall include a disclosure statement that the public notice, advertisement or message is paid for by government funds, and the name of the agency or agencies paying for the notice.

(b) As used in this Section, Agency means any authority of the government, and includes a department, institution, board, bureau, commission, council, committee of Guam government, branch, autonomous instrumentality or other public entity of the government of Guam, whether or not it is within or subject to review by another agency.

(c) Public notice, advertisement or message as used in this

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Section means all media including print, radio, television or the internet.

SOURCE: Added by P.L. 26-012:1. Amended by P.L. 30-119:1 (Apr. 1, 2010).

2018 NOTE: References to "Territory" and "territorial" removed and/or altered to "Guam" pursuant to 1 GCA § 420.

§ 22431. Line of Credit.

[Repealed.]

SOURCE: Added by P.L. 26-85:2 as § 22429, which section already exists. Subsection (b)(vii) added by P.L. 26-122:9. Subsection (a) added by P.L. 26-122:10. Subsection (b)(v) amended by P.L. 26-122:11. Subsection (b)(viii) added by P.L. 26-122:12. Repealed by P.L. 26-156:1 (Dec. 13, 2002). The remainder of P.L. 26-156 is uncodified and provides for lines of credit and other Typhoon Pongsona recovery measures.

§ 22432. Creation of Fund.

(a) There is hereby created, separate and apart from other funds of the government of Guam, a fund to be known as the "Line of Credit Repayment Fund" (Fund). The Fund shall not be commingled with the General Fund and shall be kept in a separate bank account, under the purview of the Public Auditor. The funds deposited into the Line of Credit Repayment Fund are hereby appropriated for the repayment of the line of credit authorized by *I Liheslaturan Guåhan* [Guam Legislature] in 5 GCA § 22431(a).

(b) All payments made pursuant to the written payment plans executed between the government and taxpayers for balance taxes due for all tax years, other than tax year 2001, not subject to an existing levy, payroll deduction, or written voluntary agreement, or constitute an account deemed by the Department of Revenue and Taxation to be pending due to litigation or other legal problems, shall be deposited into the Fund to be solely used for the repayment of the line of credit authorized herein.

(c) The Department of Revenue and Taxation shall provide *I Maga'lahen Guåhan* [Governor] and *I Liheslaturan* [Guam Legislature] Guåhan on a bi-weekly basis, upon the enactment of this Section, the total amount of balance taxes due, subject to a written payment plan, and the number of taxpayers executing the written payment plan.

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(d) The deposits made to the Fund pursuant to 5 GCA § 22432(b) shall be invested or reinvested in interest-bearing instruments, United States treasury notes, investment grade and insured corporate notes, and other like instruments which are readily convertible to cash needed to pay for the line of credit authorized by *I Liheslaturan Guåhan* in § 22429(a) of Title 5 of the Guam Code Annotated.

SOURCE: Added by P.L. 26-85:3 as § 22430. Renumbered by Compiler as that section already exists.

§ 22433. Authorization Conditioned.

The authorization of the line of credit as set forth in 5 GCA § 22431(a) shall become effective only after *I Maga'lahen Guåhan* [the Governor] reduces the total salary spending for unclassified positions, not to include licensed professionals, within the government of Guam by Two Million Dollars ($2,000,000).

SOURCE: Added by P.L. 26-85:4 as § 22431. Renumbered by Compiler as that section already exists.

§ 22434. Expiration Date for Encumbrances.

(a) An encumbrance against any type of appropriation shall be automatically returned to the Fund against which it was encumbered nine (9) months after fiscal year end in which the encumbrance was originally recorded, unless the encumbrance falls under requirements imposed by United States law governing United States Federal awards.

(b) Encumbrances that are returned to the Fund against which it was encumbered are hereby de-appropriated. The appropriate government of Guam department, agency, instrumentality, or public corporation incurring the encumbrance may submit a request for a re-appropriation immediately, to [the Legislature] *I Liheslaturan Guåhan*. The request for a re-appropriation shall include, but not be limited to, the reason why such appropriation is necessary, and details on the delay of expending the original encumbrance by the requesting department, agency, instrumentality, or public corporation.

(c) All capital improvement, or capital outlay project encumbrances shall be exempted from this Section.

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SOURCE: Added as § 22430 by P.L. 27-78:1. Renumbered by Compiler because that number was already occupied by another section and not repealed.

§ 22435. Authorization to Issue Bonds for Certain Capital Expense Items and Capital Improvement Projects of School Facilities and for Other Purposes.

(a) Authorization to Issue Bonds. *I Maga'lahen Guåhan* is authorized to issue one (1) or more series of bonds of the government of Guam in the aggregate principal amount necessary to fund an escrow for the refinancing of the General Fund obligations listed in subsection (k)(1) hereof and to provide no more than Ninety Million Dollars ($90,000,000) for the payment of the General Fund expenses listed in subsection (k)[(2), (3), (4), (5), (6), (7), (8), (9) and (10)] hereof, and, in each case, to fund necessary reserves and to pay expenses incurred in the issuance of such bonds not already provided for by an existing appropriation for or in the regular budget of a government agency, instrumentality or public corporation that provides any services regarding the issuance of such bonds; provided that said bonds shall not be issued in an amount that would create a violation of the debt limitation imposed by 48 U.S.C. 1423a (§11 of the Organic Act of Guam).

(b) Terms and Conditions. The terms and conditions of said bonds shall be as determined by *I Maga'lahen Guåhan* and expressed by his execution of a certificate or indenture authorizing issuance of the bonds; provided that said terms and conditions shall be consistent herewith, and that the bonds shall mature no later than the year 2037, and shall bear interest at such rates and be sold for such prices as shall result in a yield to the bondholders not exceeding six and ninety five hundredths percent (6.95%) per annum. The annual debt service for any of the government of Guam General Obligation Bonds, 1993 Series A, to remain outstanding, together with the annual debt service on the bonds authorized by this Section, for any given year shall not exceed the aggregate annual debt service for said bonds for the previous year or the next succeeding year by more than one percent (1%); provided that no repayment of principal of the bonds authorized by this Section shall be required during the first two (2) years after their issuance.

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(c) Valid and Binding General Obligations. The bonds authorized by this Section shall constitute valid and binding general obligations of the government of Guam. The government of Guam pledges its full faith and credit for the punctual payment of both the principal and interest on the bonds. There shall be collected annually, in the same manner and at the same time as government revenue for other purposes is collected, a sum adequate to pay the principal of and interest on the bonds. All officers charged by law with any duty in the collection of government revenues from which debt service on the bonds will be paid shall do every lawful thing necessary to collect such sum. The validity of said bonds shall not be affected by the validity or regularity of any proceedings for the payment of the General Fund expenses paid or to be paid with bond proceeds.

(d) Appropriations from the General Fund. There is hereby appropriated from the General Fund an amount sufficient to pay the principal and interest on said bonds.

(e) Additional Bonds. Nothing herein shall be construed to prohibit the government of Guam from issuing, after appropriate enabling legislation, other obligations of the government secured by the general obligation of the government on a parity with or subordinate to the bonds authorized hereby on such terms as are created by the bond indenture or certificate. Nothing herein shall be construed to prohibit the government of Guam from issuing, after appropriate enabling legislation, other obligations of the government secured by Real Property Tax Revenues.

(f) Waiver of Immunity; Submission to Jurisdiction. Notwithstanding Chapter 6 of Title 5 Guam Code Annotated, the government of Guam hereby waives immunity from any suit or action in contract based on the said bonds, but does not waive immunity regarding the personal liability of elected officials and employees of the government of Guam. Any such action may be brought in the District Court of Guam.

(g) No Personal Liability. No employee or elected official of the government of Guam shall be personally liable for the payments due on the bonds issued pursuant hereto, or for any other liability arising in connection with the bonds; provided that

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nothing herein relieves any employee or elected official from the performance of a ministerial duty required by law.

(h) Form of Bonds; Covenants; Appointment of Fiduciaries. The technical form and language of the bonds, including provisions for execution, exchange, transfer, registration, paying agency, lost or mutilated bonds, negotiability, cancellation and other terms or conditions not inconsistent with this Section, including covenants relating to the collection of revenues, shall be as specified in the certificate or indenture executed by *I Maga'lahen Guåhan* authorizing issuance of the bonds. The Trustees on the prior bonds shall remain as Trustees on the refunding bonds. The Trustee, Co-Trustee or other fiduciaries are authorized to receive and hold in trust the proceeds of the bonds, the revenues and other moneys relating thereto, to protect the rights of bondholders and to perform such other duties as may be specified by the certificate or indenture.

I Maga'lahen Guåhan may execute, on behalf of the government of Guam, any appropriate agreements, certificates or other instruments relating to the bonds and the sale of bonds.

(i) Authorization for Credit Enhancement. *I Maga'lahen Guåhan* is authorized to enter into such contracts or agreements with such banks, insurance companies or other financial institutions as he determines are necessary or desirable to improve the security and marketability of the bonds issued under this Section. Such contracts or agreements may contain an obligation to reimburse, with interest, any such bank, insurance company or other financial institution for advances it makes to pay the principal of or interest on the bonds and to indemnify any such bank, insurance company or other financial institution for costs and expenses incurred in connection with any such advance. Any such reimbursement obligation and any other obligations of the government under such contracts or agreements shall be general obligations of the government of Guam and any such advance, if necessary, shall be treated for Organic Act purposes as creating an obligation issued to refund the bonds.

(j) Use of Proceeds from the Sale of the Bonds. The proceeds from the sale of the bonds shall be used and are hereby appropriated to (1) refinance the General Fund obligations and to

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fund the capital projects and other purposes described in subsection (k) hereof; (2) establish necessary reserves; (3) pay expenses relating to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds; and (4) fund capitalized interest on the bonds issued for the purposes described in subsection (k)(1) hereof for a period ending not later than thirty (30) months from the receipt of proceeds.

(k) Use of Proceeds of Bonds. The proceeds of said bonds are appropriated as follows:

(1) to fund an escrow account to pay debt service on all or a portion of the Government of Guam General Obligation Bonds, 1993 Series A.

(2) Twenty-nine Million Five Hundred Four Thousand Dollars ($29,504,000) to fund the capital expense items and capital improvement projects of the Department of Education needed to comply with the Every Child is Entitled to an Adequate Public Education Act as listed in Attachments A and A-1. Effective October 23, 2014, the Superintendent of Education is authorized to expend the remaining funds for facilities repair, and air conditioning and equipment repair and replacement for public schools.

(3) Sixteen Million Dollars ($16,000,000) to fund payments to COLA Class awardees as ordered by the Judgment in Rios v. Camacho, Superior Court Case No. SP0206-93.

(4) Twenty-one Million One Hundred Ninety-six Thousand Dollars ($21,196,000) to fund past due Income Tax Refunds.

(5) Two Million Six Hundred Forty Thousand Dollars ($2,640,000) to fund capital improvement projects of the Guam Memorial Hospital and Three Hundred Sixty Thousand Dollars ($360,000) for the University of Guam to

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fund renovations and expansion of the Nursing/Health Science Building.

(6) Two Million Dollars ($2,000,000) to meet obligations imposed by the Permanent Injunction (District Court of Guam CIV01-00041) on the Department of Integrated Services for Individuals with Disabilities, provided that said funds shall only be made available to the Department if the District Court approves its revised Guam Comprehensive Integration Plan.

(7) Four Million Dollars ($4,000,000) to meet obligations imposed by the Permanent Injunction (District Court of Guam CIV01-00041) on the Guam Behavioral Health and Wellness Center, provided that said funds shall only be made available to the Department if the District Court approves its revised Guam Comprehensive Integration Plan.

(8) One Million Dollars ($1,000,000.00) to fund personnel and operations costs of the Department of Revenue and Taxation necessary to implement an Aggressive Tax Collection Effort in FY2009.

(9) Three Hundred Thousand Dollars ($300,000) to the Department of Education for school water tanks and water fountains.

(10) The remaining balance of the bond proceeds shall be used first to fund up to Two Million Dollars ($2,000,000) for the Department of Law's APASI system and second to fund the capital and operating expenses of the Guam Memorial Hospital.

(l) Permitted Investments. The proceeds of the bonds and any revenues from the such bonds shall be invested only in investments authorized by the certificate or indenture pursuant to which the bonds are issued.

(m) Approval by the Guam Economic Development and Commerce Authority. No bonds authorized by this Section shall be sold until the Board of Directors of GEDCA has adopted a resolution approving the sale.

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(n) Approval of Voters Not Required. Notwithstanding Title 3 Guam Code Annotated §§ 17311 and 17312, the issuance of the bonds authorized hereby shall not be subject to the approval of the voters of Guam.

SOURCE: Added by P.L. 28-149:II:VII:2 (Sept. 30, 2006). Repealed by P.L. 29-002:VI:33 (May 18, 2007). Added by P.L. 29-019:VIII:1 (Sept. 29, 2007). Subsection (k)(8) amended by P.L. 29-113:VI:24 (Sept. 30, 2008). Subsection (k)(2) amended by P.L. 32-207:8 (Oct. 31, 2014).

2007 COMMENT: Public Law 21-019:VIII:5 (Sept. 29, 2007), as amended by P.L. 29-021:5 (Oct. 22, 2007) provides:

> **Section 5. Early Redemption of Bonds.** The certificate or indenture authorized by Title 5 GCA $22435 shall authorize the early redemption, on or after November 15, 201 7, of the bonds authorized thereby. Fifty percent (50%) of any amount in excess of One Hundred Million Dollars ($100,000,000) paid to the government of Guam by the Government of the United States pursuant to Section 30 of the Organic Act, Title 48 U.S. Code §1421h, in any fiscal year shall be used for the early redemption of said bonds.

2013 NOTE: Pursuant to P.L. 32-024:2 (May 6, 2013) which renamed the Department of Mental Health and Substance Abuse (DMHSA) to the Guam Behavioral Health and Wellness Center, all references to DMHSA were altered to the Guam Behavioral Health and Wellness Center.

§ 22436. General Fund Appropriations to the Rainy Day Fund Cap.

(a) Beginning in Fiscal Year 2010, *I Liheslatura* (the Legislature) shall not appropriate more than ninety-eight percent (98%) of the total revenues projected for the General Fund for the fiscal year until such time as the General Fund deficit is eliminated. All unappropriated annual General Fund revenues collected in excess of appropriations shall be used to liquidate obligations for refunds, earned income tax credits and prior years' vendor payables.

I Liheslatura (the Legislature) shall appropriate not less than two percent (2%) of the total revenues projected for the General Fund for each fiscal year to the Rainy Day Fund established pursuant to § 22901, Article 9, Division 2, Chapter 22, Title 5, Guam Code Annotated, until such time as indicated in § 22904, Article 9, Division 2, Chapter 22, Title 5 GCA.

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(b) Emergency. To the extent necessary to deal with any disaster or emergency this General Fund Appropriations Cap may be temporarily lifted in the event *I Maga'håga* (the Governor), the President of the United States, or *I Liheslatura* (the Legislature) by vote of a majority of its Members declares Guam to be in a state of emergency or any similar designation.

SOURCE: Added by P.L. 29-113:VI:23 (Sept. 30, 2008), entitled "General Fund Appropriations Cap." Amended and renamed by P.L. 35-036:XII:26 (Sept. 4, 2019).

§ 22437. Approval of Financial Agreements or Arrangements.

Any financial agreement or arrangement between the government of Guam with any bank, private banking firm, brokerage firm, bond brokerage firm, or similar financial institutions which uses, pledges, or arbitrages any government revenue, trust funds, debt service payment deposits with trustees, bond proceeds, or interests on any of these, *not* specifically authorized by existing statute authorizing the issuance or refinancing of bonds, *shall* require legislative approval; and any income generated from such financial agreement and arrangement *shall* require legislative appropriation.

SOURCE: Added as uncodified law by P.L. 32-068:XII:19 (Sept. 11, 2013), codified to this section by the Compiler and stricken pursuant to P.L. 32-181:XIII:19 (Sept. 5, 2014). Added by P.L. 33-066:XII:21 (Sept. 5, 2015).

§ 22437. Timing of Municipal Lease Payments.

For the budget act period of Fiscal Year 2018, and for each subsequent budget act period thereafter, executive branch agencies of the government of Guam shall amortize payments for each municipal lease into equal monthly installments throughout the fiscal year; provided, that any such amortization schedule for its respective municipal lease does not contravene the provisions of any indenture such that it would cause default or any other negative impact to the credit rating of the government of Guam.

SOURCE: Added by P.L. 34-035:2 (July 13, 2017).

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ARTICLE 5
INTEREST ON LATE PAYMENTS BY THE GOVERNMENT

SOURCE: The Prompt Payment Act was enacted by P.L. 18-040:25-26.

§ 22501. Title: Prompt Payment Act.
§ 22502. Definitions.
§ 22503. Interest Penalties.
§ 22504. Limitation on Discount Payments.
§ 22505. Rules and Regulations.
§ 22506. Claims: Relation to Other Laws.
§ 22507. Legislative Oversight.

§ 22501. Title: Prompt Payment Act.

Sections 22502-22507 of this Article may be cited as the Prompt Payment Act.

§ 22502. Definitions.

As used in this Article:

(a) Government agency means a department, agency, bureau or instrumentality of the Executive Branch of the government of Guam.

(b) Business means a business as defined in Subsection (c) of § 16002 of the Government Code.

(c) Food product means meat and meat products, fish and shellfish, edible fresh or frozen poultry, poultry meat products, fresh eggs and perishable egg products.

(d) Perishable agricultural commodity means groceries, vegetables, fresh fruit and other perishables.

§ 22503. Interest Penalties.

(a) Each government agency which receives property or services from a business but which does not make payment for each such complete delivered item of property or service by the required payment date, shall pay an interest penalty to such business on the amount of the payment which is due as specified in this Article.

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(b) Interest penalties on amount due to a business under this Article shall be paid to the business for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made, except that no interest penalty shall be paid if payment for complete delivered item of property or service is made on or before the fifteenth day after the required payment date, in the case of a food product; or the thirtieth day after the required payment date in the case of a perishable agricultural commodity; or the forty-fifth day after the required payment date, in the case of any other item. Interest shall be computed at the same interest rate assessed on unpaid income taxes owed by taxpayers.

(c) Any amount of an interest penalty which remains unpaid at the end of any thirty-day period shall be added to the principle amount of the debt and thereafter interest penalties shall accrue on such added amount.

(d) There is hereby authorized to be appropriated such sums as are necessary for the payment of interest penalties required by this Section.

§ 22504. Limitation on Discount Payments.

(a) If a business offers a government agency a discount from the amount otherwise due under a contract for property or services in exchange for payment within such specified period of time, the government agency may make payment in an amount equal to the discounted price only if payment is made within such specified period of time.

(b) Each government agency which violates Subsection (a) of this Section shall pay an interest penalty on any amount which remains unpaid in violation of that Subsection. Such interest penalty shall accrue on such unpaid amount in accordance with regulations prescribed pursuant to § 22505 of this Article except that the required payment date for such unpaid amount shall be the last day of the specified period of time described in Subsection (a) of this Section.

§ 22505. Rules and Regulations.

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The Director of the Department of Administration shall promulgate rules and regulations in accordance with the Administrative Adjudication Law and this Article. Such regulations shall specify:

(a) that for any property or services not covered by items (b), (c) and (d) of this Section, the required payment date shall be the date on which payment is due under the terms of the contract for the provision of such property or service; or, if a specific date on which payment is due is not established by contract or by items (b), (c) and (d) of this Section, thirty (30) days after receipt of a proper invoice for the amount of the payment; and

(b) in the case of an acquisition of food product, a required payment date which is not later than fifteen (15) days after the date of delivery of such food product; and

(c) in case of an acquisition of a perishable agricultural commodity, a required payment date; and

(d) in the case of a contract under which property or services are provided in a series of partial executions or deliveries, to the extent that such contract provides for separate payment for such partial execution or delivery, such separate payment dates shall be the required payment dates; and

(e) a requirement that, within fifteen (15) days the date on which an invoice is received, that a government agency notify the business of any defect or impropriety in such invoice which would prevent the running of the time period specified in items (a), (b), (c) or (d) of this Section.

§ 22506. Claims: Relation to Other Laws.

(a) Claims for interest penalties which a government agency has failed to pay in accordance with the requirements of § 22503 or § 22504 of this Chapter may be filed under statutes governing contract disputes with the government of Guam.

(b) Interest penalties under this Article shall not continue to accrue after the filing of a claim for such penalties, or for more than one (1) year, whichever comes first.

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(c) Except as provided in § 22504 of this Article regarding disputes concerning discounts, this Article shall not be construed to require interest penalties on payments which are not made by the required payment date by reason of a good faith dispute between a government agency and a business over the amount of that payment or other allegations concerning compliance with a contract. Claims concerning any such dispute, and any interest which may be payable for the period while the dispute is being resolved, shall be subject to appropriate statutes governing contract disputes with the Government.

§ 22507. Legislative Oversight.

(a) Each government agency shall file with the Legislature a detailed report of any interest penalty payments made pursuant to this Article during the preceding fiscal year.

(b) The report required by Subsection (a) of this Section shall include the number, accounts, frequency of interest penalty payments and the reasons such payments were not avoided by prompt payment and shall be delivered to the Legislature within sixty (60) days after the conclusion of each fiscal year.

(c) The Director of the Department of Administration shall submit a report to the Legislature on government agency compliance with the requirements of this Article within one hundred twenty (120) days after the conclusion of each fiscal year.

ARTICLE 6
CONTRACTS

§ 22601. Execution of Contracts.
§ 22602. Copy of Contracts to Dept. of Administration.
§ 22603. Contracts & Purchase Orders for Next Fiscal Period.
§ 22604. Contracts with U.S. for Services.

§ 22601. Execution of Contracts.

All contracts shall, after approval of the Attorney General, be submitted to the Governor for his signature. All contracts of whatever nature shall be executed upon the approval of the Governor.

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SOURCE: GC § 6107.

CROSS-REFERENCES: For execution of contracts made pursuant to the Procurement Law, see 5 GCA § 5121.

§ 22602. Copy of Contracts to Dept. of Administration.

A copy of any contract under which a payment may be made shall be submitted to the Department of Administration for filing, recording and registration. The Director of Administration shall cause a register to be kept of all such contracts with subsequent amendments, which register shall be open and available for public inspection during normal working hours. Certified copies of such contract with subsequent amendments may be obtained after paying the fee therefor set out in of this Chapter. No such contracts or amendments thereto shall be deemed valid or enforceable until it shall have been so submitted to the Department of Administration and enrolled on the public register.

SOURCE: GC § 6108 amended by P.L. 12-159.

NOTE: Prior § 6108 did not hinge validity of contracts on filing and registration. This amendment became effective on November 28, 1973 and applied only to contracts executed after that date.

§ 22603. Contracts & Purchase Orders for Next Fiscal Period.

Whenever appropriations have been made for any fiscal year, contracts and purchase orders may be executed and charged against such appropriations at any time prior to the beginning of the fiscal year; provided, however, that no payments shall be made pursuant to such contracts or purchase orders prior to the fiscal year for which such appropriations are made.

SOURCE: GC § 6115.

§ 22604. Contracts with U.S. for Services.

I Maga'lahi (the Governor) is authorized to enter into agreements with the United States of America, or any agency or instrumentality thereof, for the furnishing by the government of Guam of services, including labor and use of equipment, on a reimbursable basis. All proceeds derived from such agreements shall be paid into the General Fund of the government of Guam, except that to the extent such services are furnished by the Jose D. Leon Guerrero Commercial Port of Guam or the Guam Waterworks Authority, and the Guam Power Authority, reimbursement shall be paid into the treasuries of the respective agencies.

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SOURCE: GC § 6117 added by P.L. 6-57. Repealed and Reenacted by P.L. 27-110:5.

COMMENT: This § 22604 has not been amended since its adoption, despite the fact that neither the Commercial Port, nor the Public Utilities Division of the Dept. of Public Works, nor their respective funds, exist. All functions referred to in the original law have been taken over by the respective authorities, now autonomous agencies. The Compiler presumes that other autonomous agencies providing services, such as the Guam Airport Authority, will receive reimbursement into their own funds, in accordance with their own powers. Guam did not have a civilian airport in 1962, when this law was enacted.

ARTICLE 7
GENERAL PROPERTY CONTROL

§ 22701. Property Loss or Damage.
§ 22702. Property Survey.
§ 22703. Exemption from § 22702; Law Library Donations.
§ 22704. Acquisition of Office Space & Other Facilities.
§ 22705. Release of Working Animals from Government Service.

§ 22701. Property Loss or Damage.

An officer or agent responsible under the government for property will be charged for any damage (beyond ordinary wear and tear) or loss, or destruction of the same, unless he shows to the satisfaction of the Director of Administration, by affidavit or depositions, or by report of a board of survey, that the damage, loss or destruction was occasioned by unavoidable causes, without fault or neglect on his part.

SOURCE: GC § 6109.

§ 22702. Property Survey.

(a) There is within the government of Guam a Board of Survey which shall be composed of five members appointed by the Governor with the advice and consent of the Legislature. The Board of Survey shall meet within fifteen days after preparation of a listing of surplus and lost property. No member shall be an employee of the government of Guam. No member shall receive

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compensation for his services on the Board of Survey. No member shall purchase or obtain surplus property upon its disposition. No entity, charitable or for profit, in which a member is actively involved shall become eligible to purchase or obtain surplus property upon its disposition. Three members of the Board shall constitute a quorum and a majority of those present may take action on behalf of the Board.

(b) On the second Monday of each Quarter, each department administrator whose department has surplus or lost property shall provide the Director of Administration with a list of all personal property which has been disposed of in accordance with § 22703 of this Article, become unserviceable through wear and tear, obsolescence or otherwise, or how been lost. On the third Monday of each Quarter, the Director of Administration shall promulgate a listing of all surplus and lost property and distribute it to each department or agency within the government of Guam. Any department or agency may request transfer of the surplus property to it at no cost. The request for transfer shall indicate the intended use for such property. The Guam Community College and the Department of Vocational Rehabilitation may be requested to repair property if the property can be restored to use at a reasonable rate, provided, that no property shall be repaired or restored if the cost exceeds 65% of the value of the property.

(c) The Board of Survey shall authorize the transfer of property among agencies and departments of the government of Guam. If costs of repair have been incurred, then the acquiring agency shall pay such costs.

(d) If a department of agency proposed to use surplus property as a trade-in, then the Board of Survey shall approve the terms of the trade-in including the amount of the allowance.

(e) Property not disposed of by transfer or trade-in shall be sold as follows:

(1) Property with an acquisition cost of less than $1,000 or with an acquisition cost of more than $1,000 with a fair market value at the time of disposal of less than $500 maybe sold at fixed prices as determined by the Board at a surplus

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sale operated by the Department of Administration and open to the public at specified dates and times.

(2) Property with an acquisition cost of more than $1,000 and with a fair market value at the time of disposal of more than $500 shall be sold to the highest bidder at an auction which has been advertised to the public more than 10 days in advance of such sale.

(3) All money received from such sale shall be deposited in the General Fund.

(f) Property which has not been transferred, traded in or sold after 60 days may be donated to a local charitable, social or civil association on a first come first served basis, or disposed of in any other way possible.

(g) If the property has been lost, then the Board of Survey shall review the circumstances of the loss, determine if the loss was due to the negligence of any employee and authorize the removal of the property from official government records. If the loss occurred because of the negligence of any employee, then the Board shall refer the matter to the Attorney General to pursue recovery of the loss.

(h) The provisions of this Section shall be applicable to the Executive, Legislative, and Judicial Branches of the Government unless the property is subject to disposal by Federal law.

SOURCE: GC § 6110 added by P.L. 10-72; amended by P.L. 16-61.

CROSS-REFERENCES: This section does not apply to surplus supplies, the definition and disposition of which are covered in 5 GCA § 5403 as part of the Procurement Law.

§ 22703. Exemption from § 22702; Law Library Donations.

Notwithstanding the provisions of § 22702 of this Article, rules and regulations promulgated thereunder, or any other law or administrative provision, any agency, department, or instrumentality of the government of Guam is authorized to donate books or other educational materials to the Guam Law Library.

SOURCE: GC § 6110.1 added by P.L. 15-24:13.

2016 NOTE: Reference to the "Territorial Law Library" changed to "Guam Law Library" pursuant to 1 GCA § 420.

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§ 22704. Acquisition of Office Space & Other Facilities.

(a) The Governor is authorized to acquire on behalf of the government of Guam, by lease or lease-purchase agreement, office space and other facilities for the purpose of providing office and other space for the departments and agencies of the Judicial and Executive Branches of the government of Guam. Such leases and lease-purchase agreements may be negotiated and entered into by the Governor with any person, partnership, corporation, or public or private entity, provided that no such lease or lease-purchase agreement shall exceed 50 years.

(b) The Governor is further authorized to sublease space and facilities acquired pursuant to (a) hereof, and to lease other available space and facilities, to authorized federal agencies.

(c) All lease or lease-purchase agreements that are proposed to be entered into pursuant to (a) hereof, where the total sum of money to be paid to the same lessor shall exceed $10,000 or the total number of years involved shall exceed five years, may be entered into only after advertising for sealed bids in a newspaper of general circulation within Guam, 14 days prior to the formal bid opening, and then only to the lowest responsible bidder.

SOURCE: GC § 6116.

2018 NOTE: References to "Territory" and "territorial" removed and/or altered to "Guam" pursuant to 1 GCA § 420.

§ 22705. Release of Working Animals from Government Service.

(a) Availability for Adoption. The Director of the Agency concerned may make a working animal of such Agency available for adoption by a person or entity referred to in Subsection (c), unless the animal has been determined to be unsuitable for adoption under Subsection (b), under the circumstances as follows:

(1) at the end of the animal's useful life;

(2) before the end of the animal's useful life, if such Director, in such Director's discretion, determines that unusual or extraordinary circumstances justify making the animal available for adoption before that time; or

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(3) when the animal is otherwise excess to the needs of such Agency.

(b) Suitability for Adoption. The decision whether a particular animal is suitable or unsuitable for adoption under this Section shall be made by the Leader of the last Unit to which the animal is assigned before being declared excess. The Unit Leader shall consider the recommendations of the Unit's veterinarian, a certified behaviorist, or other competent authority in making the decision regarding the adoptability of the animal.

(c) Authorized Recipients. The working animals may be adopted under this Section by law enforcement agencies, former handlers of these animals, or other persons capable of humanely caring for these animals.

(d) Consideration. The transfer of a working animal under this Section may be without charge to the recipient.

(e) Limitations on Liability for Transferred Animals.

(1) Notwithstanding any other provision of law, the government of Guam shall not be subject to any suit, claim, demand or action, liability, judgment, cost or other fee arising out of any claim for personal injury or property damage, including death, illness, or loss of or damage to property or other economic loss, that results from, or is in any manner predicated upon, the act or omission of a former working animal transferred under this Section, including any training provided to the animal while a working animal.

(2) Notwithstanding any other provision of law, the government of Guam shall not be liable for any veterinary expense associated with a working animal transferred under this Section for a condition of the working animal before transfer under this Section, whether or not such condition is known at the time of transfer under this Section.

(f) Annual Report. The Director of the Agency shall submit to the Speaker of *I Liheslaturan Guåhan* an annual report specifying the number of working animals adopted under this Section during the preceding year, the number of working animals currently awaiting adoption, and the number of working animals

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euthanized during the preceding year. With respect to each euthanized working animal, the report shall contain an explanation of the reason(s) why the animal was euthanized, rather than retained for adoption under this Section.

(g) Definitions. For the purposes of this Section:

(1) Agency means the Guam Police Department, the Department of Corrections, the A.B. Won Pat International Airport Authority, or the Customs and Quarantine Agency;

(2) Director means the Chief of the Guam Police Department, Director of the Department of Corrections, the General Manager of the A.B. Won Pat International Airport Authority, or the Director of the Customs and Quarantine Agency;

(3) Working animal means a working dog for the Agency;

(4) Unit means an operational division of the Agency; and

(5) Leader means the chief officer in the Unit.

SOURCE: Added by P.L. 31-219:2 (June 15, 2012).

ARTICLE 8
TAX REFUND BONDS

SOURCE: Added by P.L. No. 22-138:1 (Aug. 19, 1994) as 5 GCA § 22440. Codified by the Compiler as Article 8 and renumbered to adhere to the Compiler's alpha-numeric scheme in accordance to 1 GCA § 1606.

§ 22801. Tax and Revenue Anticipation Bonds or Bank Loans; Authorization of Issuance of Bonds or Making of Loans to Pay Refunds.
§ 22802. Bonds; Size of Issue.
§ 22803. Terms and Conditions of the Bonds; Governor's Certificate.

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§ 22804. Valid and Binding General Obligation; Pledge of Revenues.
§ 22805. Appropriation From the General Fund.
§ 22806. Additional Bonds.
§ 22807. Waiver of Immunity.
§ 22808. Form of Bonds; Covenants; Appointment of Fiduciaries.
§ 22809. Authorization for Credit Enhancement.
§ 22810. Use of Proceeds from the Sale of the Bonds.
§ 22811. No Personal Liability.
§ 22812. Selection of Participants.
§ 22813. Approval of GEDA.
§ 22814. Local Sale of Bonds.
§ 22815. Authorization for Loans.
§ 22816. Valid and Binding General Obligations; Pledge of Revenues.
§ 22817. Appropriation from the General Fund.
§ 22818. Waiver of Immunity.
§ 22819. Form of Loans.
§ 22820. Use of Proceeds from the Loans.
§ 22821. No Personal Liability.
§ 22822. Approval of GEDA.
§ 22823. Either Bonds or Loans.
§ 22824. Maximum Borrowing.
§ 22825. Excess Proceeds.

§ 22801. Tax and Revenue Anticipation Bonds or Bank Loans; Authorization of Issuance of Bonds or Making of Loans to Pay Refunds.

In order to fund the payment of income tax refunds due to local taxpayers, the Governor of Guam is authorized to either (i) enter into one (1) or more loan agreements with local banks, as provided in § 22825, or (ii) issue one (1) or more series of general obligation bonds of the government of Guam (the "Bonds"), in anticipation of the receipt of taxes and other revenue.

§ 22802. Bonds; Size of Issue.

The Bonds shall have an aggregate principal amount at any one time outstanding not to exceed Forty-Five Million Dollars

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($45,000,000); provided, however, that the issuance of the Bonds shall not cause a violation of the debt limitation provisions of the Organic Act of Guam (48 U.S.C. 1423a). The Bonds may be issued and the proceeds expended to allow the government of Guam to pay for the cost of their issuance and discharge its obligation to pay refunds owed to taxpayers who have filed their income tax forms with the government of Guam in accordance with the Organic Act of Guam.

§ 22803. Terms and Conditions of the Bonds; Governor's Certificate.

The Governor has assured the Legislature that interest rates in the nation's capital markets are more favorable than the current six per cent (6%) required to be paid on income tax refunds owed, and that such rates vary between three and nine-tenths percent (3.9%) and five and three-quarters percent (5.75%). In the event the Governor elects to issue the Bonds their terms and conditions shall be determined by the Governor upon or prior to their issuance by his execution of a certificate authorizing such issuance. The certificate shall contain such terms and conditions as are consistent with this § 22811. The Bonds shall mature at such times as are not later than sixty (60) months after the date of their issuance, and shall bear interest at a fixed or variable rate, not exceeding a net effective yield of seven percent (7%) per annum.

§ 22804. Valid and Binding General Obligation; Pledge of Revenues.

Any Bonds authorized by this § 22811 shall constitute valid and binding general obligations of the government of Guam, which pledges its full faith and credit for the punctual payment of both principal of and interest on the Bonds. There shall be collected annually in the same manner and at the same time as government revenue for other purposes is collected, such sum as is required to pay the principal of and interest on the Bonds. All officers charged by law with any duty in the collection of the revenues of the government of Guam shall do every lawful thing necessary to collect such sum. In addition, all or part of the revenues derived by the government of Guam under Section 30 of the Organic Act of Guam may, if determined by the Governor to be necessary or desirable, be pledged to secure the repayment of

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any Bonds issued under this § 22811 and to pay the costs incurred in their issuance or administration. Any pledge made to secure the Bonds shall be valid and binding for the term of the pledge. The revenues pledged and thereafter received by the government of Guam or by any trustee, depository or custodian shall be deposited in a separate account and shall be immediately subject to the lien of such pledge without physical delivery thereof or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the government of Guam or against such trustee, depository or custodian, irrespective of whether the parties have notice thereof. The certificate or agreement by which such pledge is created need not be recorded. All such revenues, to the extent so pledged, are hereby continuously appropriated for such purpose.

§ 22805. Appropriation from the General Fund.

There are hereby appropriated from the General Fund such sums as will equal in each year the amount of money necessary to pay the principal of and interest on the Bonds.

§ 22806. Additional Bonds.

Nothing in this § 22811 shall be construed to prevent the government of Guam from issuing, pursuant to appropriate enabling legislation, other obligations of the government secured with the Bonds by the general obligation of the government on a parity with the Bonds authorized by this § 22811.

§ 22807. Waiver of Immunity.

Notwithstanding any substantive or procedural provision of Chapter 6, Title 5, Guam Code Annotated, the government of Guam hereby waives immunity from any suit or action in contract on the Bonds, but does not waive sovereign immunity as to the personal liability of elected or appointed officials and employees of the government of Guam.

§ 22808. Form of Bonds; Covenants; Appointment of Fiduciaries.

The technical form and language of the Bonds including provisions for execution, exchange, transfer, registration, paying agency, lost or mutilated Bonds, negotiability, cancellation and

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other terms or conditions not inconsistent with this § 22811, shall be as specified in the certificate executed by the Governor authorizing their issuance. The certificate may contain the appointment by the Governor of one (1) or more trustees or other fiduciaries authorized to receive and hold in trust the proceeds of the Bonds, and moneys relating thereto, to protect the rights of the bondholders and to perform such other duties as may be specified in the certificate. The Governor is also authorized to execute, on behalf of the government of Guam, any appropriate agreements, certificates or other instruments relating to the Bonds and their sale.

§ 22809. Authorization for Credit Enhancement.

The Governor is authorized to enter into such contracts or agreements with such banks, insurance companies or other financial institutions as he determines are necessary or desirable to improve the security and marketability of the Bonds issued under this § 22811. Such contracts or agreements may contain an obligation to reimburse, with interest, any such banks, insurance companies or other financial institution for advances used to pay principal of or interest on the Bonds. Any such reimbursement obligation shall be a general obligation of the government of Guam and any such advance, if necessary, shall be treated as creating a reimbursement obligation issued to refund the Bonds.

§ 22810. Use of Proceeds from the Sale of the Bonds.

Proceeds from the sale of the Bonds shall be used for the purpose for which the government of Guam is authorized to use and expend moneys as set forth in § 22812 and for payment of expenses relating to the authorization, sale and issuance of the Bonds, including, without limitation, printing costs, costs of reproducing documents, bond insurance premiums, underwriting, legal and accounting fees and charges, fees paid to banks or other financial institution providing credit enhancement, costs of credit ratings, fees and charges for execution, transportation and safekeeping of Bonds and other costs, charges and fees in connection with the issuance, sale and delivery of the Bonds. Fees charged by the Guam Economic Development Authority (GEDA) for a bond issuance are hereby waived.

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§ 22811. No Personal Liability.

No employee or appointed or elected official of the government of Guam shall be individually or personally liable for the payment of any amounts due on any of the Bonds issued under this § 22811, or for any other liability arising in connection with the Bonds; provided, however, that nothing in this § 22821 shall relieve any employee or appointed or elected official from the performance of any ministerial duty required by law.

§ 22812. Selection of Participants.

In view of the urgency for the issuance of the Bonds, at any time such issuance may be necessary, the Governor is hereby authorized to utilize such method as he deems appropriate for the selection of all participants in connection with the issuance and sale of the Bonds, including trustees, paying agents, underwriters, counsel, any credit enhancement provider and any other participants; provided, however, that such selection shall be subject to any provision of law which requires bidding, other competitive process, or any other procedure with respect to such selection, except the Governor may limit the requests for proposals for services associated with the issuance of the Bonds to those firms that have previously participated in bond issues for Guam.

§ 22813. Approval of GEDA.

Subparagraph (k) of § 2103 of Title 12, Guam Code Annotated, provides that agencies and instrumentalities of the government of Guam shall issue obligations only by means of and through the agency of GEDA, and that GEDA shall not sell any obligation without the approval of the Legislature on its terms and conditions. In view of the urgency for the issuance of the Bonds, at any time such issuance may be necessary, the Bonds issued hereunder are hereby exempted from the requirement of said subparagraph (k) that the Legislature further approve the terms and conditions of the issuance of the Bonds.

§ 22814. Local Sale of Bonds.

The Governor of Guam shall undertake his best efforts to cause a portion of any Bonds issued pursuant to this § 22811 to be

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offered for sale in Guam, if and to the extent that such offer and any sales resulting from such offer do not increase the cost to the government of Guam of issuing and repaying the Bonds.

§ 22815. Authorization for Loans.

As authorized in this § 22811, the Governor is authorized to enter into loan agreements with local banks for the purpose of paying income tax refunds owed to taxpayers (the Loans). The terms and conditions of the Loans shall be as negotiated by the Governor except that

(a) the interest rate thereon shall not exceed a net effective yield of seven percent (7%) per annum,

(b) the term of the Loans shall not exceed sixty (60) months, and

(c) interest on the Loans shall be exempt from taxation by the government of Guam.

2013 NOTE: Pursuant to the authority granted by 1 GCA § 1606, numbers and/or letters were altered to adhere to the Compiler's alpha-numeric scheme.

§ 22816. Valid and Binding General Obligations; Pledge of Revenues.

The Loans authorized by this § 22811 shall constitute valid and binding general obligations of the government of Guam, which pledges its full faith and credit for the punctual payment of both principal of and interest on the Loans. There shall be collected annually in the same manner and at the same time as government revenue for other purposes is collected, such sum as is required to pay the principal of and interest on the Loans. All officers charged by law with any duty in the collection of the revenues of the government shall do every lawful thing necessary to collect such sum.

In addition, all or part of the revenues derived by the government of Guam under Section 30 of the Organic Act of Guam may, if determined by the Governor to be necessary or desirable, be pledged to secure the repayment of the Loans and to pay the costs incurred in their issuance or administration. Any pledge made to secure the Loans shall be valid and binding for the

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term of the pledge. The revenues pledged and thereafter received by the government of Guam or by any trustee, depository or custodian shall be deposited in a separate account and shall be immediately subject to the lien of such pledge without physical delivery thereof or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the government of Guam or such trustee, depository or custodian, irrespective of whether the parties have notice thereof. The certificate or agreement by which such pledge is created need not be recorded. All such revenues, to the extent so pledged, are hereby continuously appropriated for such purpose.

§ 22817. Appropriation from the General Fund.

There are hereby appropriated from the General Fund such sums as will equal in each year the amount of money necessary to pay the principal of and interest on the Loans.

§ 22818. Waiver of Immunity.

Notwithstanding any substantive or procedural provision of Chapter 6, Title 5, Guam Code Annotated, the government of Guam hereby waives immunity from any suit or action in contract on the Loans, but does not waive sovereign immunity as to the personal liability of elected or appointed officials and employees of the government of Guam.

§ 22819. Form of Loans.

The form and language of the loan agreements supporting the Loans including provisions for execution, negotiability, termination, defaults, and other terms or conditions not inconsistent with this § 22811, shall be as negotiated by the Governor authorizing their execution. The Governor is authorized to execute, on behalf of the government of Guam, the loan agreements and any other appropriate agreements, certificates or other instruments relating to the Loans and their payment.

§ 22820. Use of Proceeds from the Loans.

Proceeds from the Loans shall be used for the purpose for which the government of Guam is authorized to use and expend moneys as set forth in § 22812 and for payment of expenses

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relating to the negotiation and execution of the Loans, including, without limitation, costs of reproducing documents, legal and accounting fees and charges, commitment and other fees paid to the lenders, costs of credit ratings, fees and other costs, charges and fees in connection with the execution and delivery of the Loans.

§ 22821. No Personal Liability.

No employee or appointed or elected official of the government of Guam shall be individually or personally liable for the payment of any amounts due on any of the Loans made under this § 22811, or for any other liability arising in connection with the Loans; provided, however, that nothing in this § 22831 shall relieve any employee or appointed or elected official from the performance of any ministerial duty required by law.

§ 22822. Approval of GEDA.

Subparagraph (k) of § 2103 of Title 12, Guam Code Annotated, provides that agencies and instrumentalities of the government of Guam shall issue obligations only by means of and through the agency of GEDA, and that GEDA shall not sell any obligation without the approval of the Legislature on its terms and conditions. In view of the urgency for the execution of the Loans, at any time such execution may be necessary, the Loans made hereunder are hereby exempted from the requirement of said subparagraph (k) that the Legislature further approve the terms and conditions of the issuance of the Loans.

§ 22823. Either Bonds or Loans.

In paying the income tax refunds due to Guam taxpayers, the government of Guam may utilize only one (1) of the two (2) alternatives authorized by this § 22811: Either the Bonds or the Loans, but not both, and shall choose that alternative that is determined to be the less expensive and the more expeditious.

§ 22824. Maximum Borrowing.

Whether the Bonds or the Loans are utilized, the maximum borrowing under either shall not exceed Forty-Five Million Dollars ($45,000,000).

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§ 22825. Excess Proceeds.

In the event the proceeds of either the Bonds or the Loans are in excess of the amounts needed to pay all the tax refunds due and to pay for the costs of issuance and administration of such Bonds or Loans, such excess shall only be used to redeem the Bonds or to repay the Loans.

NOTE: Sections .01, .0101, .0102, .0103, .0104, .0105, .0106, .0107, .0108, .0109, .0110, .0111, .011.2, .02, .0201, .0202, .0203, .0204, .0205, .0206, .0207, .03, .04, and .05 have been changed to §§ 22802, 224803, et seq. The section numbers in the original bill were amended to reflect the current GCA format. Amended by Compiler in order to reflect the correct citation.

ARTICLE 9
RAINY DAY FUND

SOURCE: This Article was added as Article 8 by P.L. 22-024:7 (Aug. 31, 1993) and renumbered by Compiler.

§ 22901. Creation.
§ 22902. Separate Fund and Bank Account.
§ 22903. Purpose and Expenditures.
§ 22904. Deposits and Appropriations.
§ 22905. Administration.
§ 22906. Investment.

§ 22901. Creation.

There is hereby created, separate and apart from the other funds of the government of Guam, a reserve fund known as the "Rainy Day Fund."

§ 22902. Separate Fund and Bank Account.

The Rainy Day Fund shall not be commingled with the General Fund or any other fund of the government of Guam. The Rainy Day Fund shall be maintained in a separate bank account.

§ 22903. Purpose and Expenditures.

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The Rainy Day Fund shall be expended by appropriation by law for the following purposes:

(a) eliminating or reducing any General Fund deficit existing at the end of a fiscal year substantially resulting from an unexpected, substantial decline in revenues received or due to the General Fund; or

(b) for expenses caused by a Guam emergency. No monies can be transferred from the Rainy Day Fund by the Governor pursuant to her transfer authority.

§ 22904. Deposits and Appropriations.

All funds appropriated pursuant to § 22436, Chapter 22, Title 5, Guam Code Annotated, shall be deposited in the Rainy Day Fund. However, no deposits to the Rainy Day Fund shall be made if the Fund's assets exceed ten percent (10%) of the average gross operating requirements funded by the General Fund over the prior three (3) fiscal years. No expenditures from the Rainy Day Fund shall be made that reduce the Rainy Day Fund below the said ten percent (10%) average of the gross operating requirements funded by the General Fund over the prior three (3) fiscal years. Expenditures from the Rainy Day Fund *shall* only be authorized by an appropriation or appropriations authorization by the *I Liheslaturan Guåhan*.

2020 NOTE: The requirement to deposit into the Rainy Day Fund was suspended for Fiscal Year 2020 by P.L. 35-085:2 (Apr. 28, 2020).

§ 22905. Administration.

The Director of Administration shall account for and administer the Rainy Day Fund. The Director shall keep all books, records, files and accounts of the Rainy Day Fund. The Director shall prepare quarterly reports relative to the Rainy Day Fund reflecting the transactions and the financial condition of the Rainy Day Fund, which quarterly reports shall be transmitted to the Legislature and the Governor not later than thirty (30) days after the end of each quarter during the fiscal year.

§ 22906. Investment.

The Director of Administration *shall* invest money held in the Rainy Day Fund in any type of investment approved for the

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Retirement Fund. All proceeds and income from investments of the Rainy Day Fund shall be deposited in the Rainy Day Fund.

SOURCE: Added by P.L. 22-024:7 (Aug. 31, 1993). Repealed and reenacted by P.L. 29-002::VI:19 (May 18, 2007). Amended by P.L. 35-036:XII:25 (Sept. 4, 2019).

ARTICLE 10
LIMITED OBLIGATION INFRASTRUCTURE IMPROVEMENT BONDS

SOURCE: Article added by P.L. 24-111:1 (Dec. 2, 1997).

2026 NOTE: Exhibits A and B are found in a separate attachment to this Chapter.

§ 22950. Certain Definitions.
§ 22951. Authorization of Issuance of Limited Obligation Infrastructure Improvement Bonds.
§ 22952. Source of and Security for Payment of the Bonds.
§ 22953. Terms and Conditions Determined by Indenture; Forms of Bonds; Covenants; Appointments of Fiduciaries; Other Related Agreements.
§ 22954. Authorization for Credit Enhancement.
§ 22955. Valid and Binding Obligations, Collection of Revenue.
§ 22956. Waiver of Immunity.
§ 22957. No Personal Liability.
§ 22957.1. Liability of Contractors and Project Engineers.
§ 22958. Infrastructure Improvement Projects.
§ 22959. Approval of Guam Economic Development Authority.
§ 22960. Approval of Terms and Conditions.
§ 22961. Permitted Investments.
§ 22962. Local Sale of Bonds.

Exhibit A Government of Guam Limited Obligation Infrastructure Improvement Bonds Including the 1997 Series A Bonds

Exhibit B Infrastructure Improvement Projects

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§ 22950. Certain Definitions.

The following terms shall have the following meanings when used in this Article:

(a) Hotel tax revenues means all revenues derived from taxes of the type now imposed by § 30101 of Chapter 30 of Title 11 of the Guam Code Annotated.

(b) Infrastructure improvement project means any infrastructure improvement project approved in connection with the prior obligations and any infrastructure improvement project subsequently approved by statute for implementation with moneys derived from the prior obligations or from new bonds issued under this Article.

(c) New money bond means a bond issued pursuant to this Article as part of the same issue at the refunding bonds, but for the purpose of providing moneys for one (1) or more infrastructure improvement projects, funding any necessary bond reserves allocable to the new bonds or paying expenses incurred in connection with the issuance of such new money bonds.

(d) Prior obligations means the outstanding Government of Guam Limited Obligation Infrastructure Improvement Bonds, 1989 Series A, and the payment obligations of the government of Guam ('Government') under the loan agreement, dated as of June 20, 1997 by and between the Government and Bank of Hawaii (the 'Loan Agreement').

(e) Refunding bond means a bond issued pursuant to this Article for the purpose of providing moneys to redeem or otherwise retire prior obligations, funding any necessary bond reserves allocable to the refunding bonds, or paying expenses incurred in connection with the issuance of such refunding bonds.

2012 NOTE: In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections beginning with "Numbers" to "Lowercase Letters" in this section.

§ 22951. Authorization of Issuance of Limited Obligation Infrastructure Improvement Bonds.

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The Governor of Guam is authorized to issue on behalf of the Government an issue of bonds of the Government consisting of refunding bonds and new money bonds, subject to the following requirements and limitations:

(a) The issuance of the bonds shall not cause a violation of the debt limitation provision of Title 48 U.S.C. § 1423a (§ 11 of the Organic Act of Guam).

(b) All obligation of the Government to pay debt service on the prior obligations shall be discharged concurrently with the issuance of the refunding bonds. Thereafter, any remaining debt service on the prior obligations shall be payable solely from and secured solely by a refunding escrow established for such purpose.

(c) The aggregate principal amount of refunding bonds issued shall not exceed the amount necessary to pay the prior obligations, including by funding the refunding escrow, establish a bond reserve fund allocable to the refunding bonds, and pay expenses incurred in connection with the issuance of the refunding bonds.

(d) The aggregate principal amount of new money bonds issued shall not exceed the amount necessary to fund the projects in § 22958, establish a bond reserve fund allocable to the new money bonds and to pay expenses incurred in connection with the issuance of the new money bonds.

(e) The aggregate principal amount of the bonds issued shall not exceed Eighty Million Dollars ($80,000,000).

2012 NOTE: In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections beginning with "Numbers" to "Lowercase Letters" in this section.

§ 22952. Source of and Security for Payment of the Bonds.

The bonds of the new issue shall be limited obligations of the Government payable from and secured by a pledge of all or any part of the hotel tax revenues. Any pledge made to secure the bonds shall be valid and binding from the time the pledge is made. The hotel tax revenues received by the Government or any trustee,

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depository and custodian shall be deposited in a separate account and shall be immediately subject to the lien of such pledge without physical delivery thereof or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise, against the Government of such trustee, depository or custodian, irrespective of whether the parties have notice thereof. The indenture by which such pledge is created need not be recorded. Hotel tax revenues pledged for the purpose of paying the bonds are hereby continuously appropriated for such purpose and for the purposes of paying the charges of any trustee, custodian, depository, auditor or credit enhancement provider for the bonds and any other necessary bond expenses under the indenture. All such revenues not needed for such purpose or for the purpose of paying any bonds issued pursuant to § 1515 of Title 5, Guam Code Annotated, and any expenses relating thereto shall be transferred periodically by any trustee or other fiduciary under the indenture as provided by said § 1515. The obligation to make such transfers shall not be a part of the contract with the bondholders, and shall be subject to the modification by amendment of this § 22952 by *I Liheslaturan Guåhan* (the Guam Legislature).

SOURCE: Amended by P.L. 30-228:3 (Dec. 30, 2010).

§ 22953. Terms and Conditions Determined by Indenture; Form of Bonds; Covenants; Appointment of Fiduciaries; Other Related Agreements.

The terms and conditions of the new issue shall be as determined by the Governor by the execution of an indenture authorizing the issuance of the issue. The indenture shall contain such terms and conditions as are consistent with this Article. The technical form and language of the bonds of the new issue, including provisions for execution, exchange, transfer, registration, paying agency, lost or mutilated bonds, negotiability, cancellation and other terms, covenants or conditions not inconsistent with this Article, shall be as specified in the indenture executed by the Governor authorizing the issuance of the bonds in substantially the form presented to this Legislature as evidenced by the attached "Exhibit A" made part of this Act. The indenture may appoint one (1) or more trustees or other fiduciaries

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authorized to receive and hold in trust the proceeds of the bonds and moneys relating thereto, to protect the rights of bondholders and to perform such other duties as may be specified in the indenture. The Governor is also authorized to execute, on behalf of the Government, any appropriate agreements, certificates or other instruments relating to the bonds and the sale of the bonds.

2026 NOTE: Exhibit A is attached as a separate document to this Chapter.

§ 22954. Authorization for Credit Enhancement.

The Governor is authorized to enter into such contracts or agreements with such banks, insurance companies or other financial institutions as he determines are necessary or desirable to improve the security and marketability of any bonds authorized by this Article. Such contracts or agreements may contain an obligation to reimburse, with interest, any such banks, insurance companies or other financial institutions for advances used to pay principal of or interest on the issue. Any such reimbursement obligation shall be payable solely from the same sources as debt service on the issue is payable, and any such advance, if necessary, shall be treated as creating a reimbursement obligation issued to refund the issue.

§ 22955. Valid and Binding Obligations, Collection of Revenue.

The bonds of the issue authorized by this Article shall constitute the valid and binding limited obligations of the Government. All officers charged by law with any duty in the collection of any revenues from which debt service on the issue is payable shall do every lawful thing necessary to collect the money necessary for such purpose. The validity of any such bonds shall not be affected by the validity or regularity of any proceedings for the implementation of the infrastructure improvement projects funded by either the prior obligations or the new money bonds.

§ 22956. Waiver of Immunity.

Notwithstanding any substantive or procedural provision of the Government Claims Act, Chapter 6 of Title 5 of the Guam Code Annotated, the Government waives immunity from any suit or action in contract on the bonds authorized by this Article, but

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does not waive sovereign immunity as to the personal liability of elected officials and employees of the Government.

§ 22957. No Personal Liability.

No employee or elected official of the Government shall be individually or personally liable for the payment of any amounts due on any bonds issued under this Article, or for any other liability arising in connection with the bonds; provided, however, that nothing in this § 22957 shall relieve any employee or elected official from the performance of any ministerial duty required by law.

§ 22957.1. Liability of Contractors and Project Engineers.

The General Manager of the Guam Economic Development Authority in conjunction with the Director of the Department of Public Works and the Attorney General of Guam shall be responsible for ensuring full and faithful compliance by private contractors and engineers with the Tumon Redevelopment Project specifications. Compliance shall include the timely citation of Tumon Redevelopment Project contractors and engineers for any negligence and the recovery of any and all monetary damages due the government of Guam under the contracts or otherwise, as well as ensuring the compliance with the standards set forth for contractors and engineers in Chapter 70 of Title 21 of the Guam Code Annotated and Chapter 32 of Title 22 of the Guam Code Annotated, respectively.

SOURCE: Added by P.L. 26-65:10

§ 22958. Infrastructure Improvement Projects.

The proceeds of the new money bonds issued under this Article are hereby appropriated for the purposes of implementing the infrastructure improvement projects contained in the attachment marked ‘Exhibit B’ and made part of this Act. The breakdown of funding amounts for each project listed in Exhibit B may be adjusted to meet the goals of the overall project, as long as the conditions listed in Item 16 are met.

SOURCE: Amended by P.L. 24-290:2. Amended by P.L. 26-065:2.

2026 NOTE: Exhibit B is attached as a separate document to this Chapter.

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NOTE: Sections 3 through 8 amends items 1, 7, 12, 14, 15 and 16, respectively, of Exhibit B of P.L.26-065. Item (17) of Exhibit B added by P.L. 28-027.

§ 22959. Approval of Guam Economic Development Authority.

Title 12 Guam Code Annotated § 50103(k) provides that agencies and instrumentalities of the Government shall issue bonds and other obligations only by means of and through the agency of the Guam Economic Development Authority ('GEDA'). No issue of bonds authorized by this Article shall be sold until the board of directors of GEDA has adopted a resolution approving the sale of such issue.

§ 22960. Approval of Terms and Conditions.

Title 12 Guam Code Annotated § 50103(k) also provides that GEDA shall not sell any bond without the approval of the Guam Legislature of the terms and conditions of the issuance of the bonds. The Guam Legislature hereby approves the issuance, terms and conditions of the bonds authorized by this Article in an aggregate principal amount not to exceed Eighty Million Dollars ($80,000,000), with a final maturity not exceeding twenty (20) years and bearing interest at fixed rates not exceeding seven percent (7%) per annum. The bonds shall be issued pursuant to an indenture in substantially the form of the indenture presented to this Legislature as evidenced by the attached "Exhibit A" made part of this Act.

2026 NOTE: Exhibit A is attached as a separate document to this Chapter.

§ 22961. Permitted Investments.

The proceeds of the bonds issued pursuant to this Article, and any revenues relating to such bonds, may be invested in, but only in, the types of investments permitted by the indenture pursuant to which such bonds are issued.

§ 22962. Local Sale of Bonds.

The Governor of Guam shall undertake his best effort to cause a portion of any bonds issued pursuant to this Article to be offered for sale in Guam, as well as in other jurisdictions, if and to the extent that such offer and any sales resulting from such offer

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do not increase the cost to the Government of issuing any repaying such bonds.

ARTICLE 11
HEALTH AND HUMAN SERVICES FUND

NOTE: This Article was renumbered from Chapter 24 of this Title 5. This Article was added by P.L. 24-174:2 as Article 10 of Chapter 22 of this Title 5.

§ 221101. Creation.
§ 221102. Separate Fund and Bank Account
§ 221103. Purpose and Expenditures.
§ 221104. Administration.
§ 221105. Designation of single Agency; Promulgation of Rules and Regulations.
§ 221106. Staffing, Funding, Initial Set Up.
§ 221107. Appropriation and Exemption.
§ 221108. Deposit.
§ 221109. Interest.

§ 221101. Creation.

There is hereby created, separate and apart from the other funds of the government of Guam, a fund known as the "Health And Human Services Fund" ('HAHS Fund').

§ 221102. Separate Fund and Bank Account.

The HAHS Fund shall not be commingled with the General Fund and shall be kept in a separate bank account. The Governor, pursuant to any of his transfer authority, shall transfer no monies from the HAHS Fund.

§ 221103. Purpose and Expenditures.

The HAHS Fund shall be expended by Legislative appropriation as follows: (1) seventy-five percent (75%) to finance various health care programs and projects, and other educational programs for tobacco prevention; and (2) Twenty-five percent (25%) to finance advance technological equipment to persons with disabilities, and other health programs specifically authorized by the Guam Legislature.

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§ 221104. Administration.

The Director of Administration shall account for, and administer, the HAHS Fund. The Director shall keep all books, records, files and account of the HAHS Fund. The Director shall prepare semi-annual reports relative to the HAHS Fund reflecting the transactions and financial condition of the HAHS Fund which semi-annual reports shall be transmitted to the Governor and the Speaker of the Guam Legislature.

§ 221105. Designation of Single Agency; Promulgation of Rules and Regulations.

(a) Designation. The Department of Public Health and Social Services ('DPHSS') is hereby designated as the 'single agency' for Guam resulting from the Federal settlement. The DPHSS shall be charged with the following responsibilities:

(1) maintaining a licensing procedure, such that any business which sells tobacco products directly to consumers would have to apply for a special license;

(2) conduct random, unannounced inspections at least monthly to ensure compliance with no sales to minors;

(3) meet targets of a minimum of seventy-five percent (75%), the percentage expressed as a percentage of all random inspections in which the retailer refused sale of tobacco to minors; and

(4) submit an annual report to the Food and Drug Administration, to the Speaker of the Guam Legislature and to the Governor of Guam concerning:

(A) detailed description of enforcement activities undertaken;

(B) detailed description of Guam's progress in reducing availability of tobacco products;

(C) detailed description of methods used in compliance checks and in identifying outlets which were tested;

(D) detailed description of strategies Guam intends

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to use in succeeding years to make further progress; and

(E) identify a single agency responsible for fulfilling the Act's requirements.

(b) Promulgation of Rules and Regulations. The Director of DPHSS is hereby directed to promulgate rules and regulations regarding the implementation of the provisions of this Act, including revising and creating forms and other documents, as are necessary in accordance with the procedures prescribed by the Administrative Adjudication Law.

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 subsection (a)(4).

§ 221106. Staffing, Funding, Initial Set Up.

(a) The Director of DPHSS is hereby authorized to employ the services of two (2) new investigative/administrative staff positions to make the required inspections, reports and for the purpose of implementing the Department's responsibilities as prescribed in § 221005 of this Article and the requirements of the Federal tobacco settlement.

(b) The Director is hereby authorized to expend the necessary sums not to exceed One Hundred Thousand Dollars ($100,000.00) from the Fund for the purpose of funding the initial set up, such as office supplies, equipment, public education, etc., and a copy of the report shall be filed with the Speaker of the Guam Legislature and the Governor of Guam within thirty (30) days.

§ 221107. Appropriation and Exemption.

The HAHS Fund shall not be used for any purpose other than those enumerated or reasonably inferred herein or for purposes other than those relating to health care. Specifically, the HAHS Fund shall not be used as a pledge of security or as collateral for government loans without prior authorization by the Guam Legislature. The total expenditures appropriated from the HAHS Fund shall not exceed eighty percent (80%) of the available balance. The remaining twenty percent (20%) balance in the HAHS Fund shall be administered by the Guam Economic Development Authority for investment purposes into a portfolio

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that mirrors the Retirement Fund's investment portfolio. The proceeds from the investments shall remain within the HAHS Fund and shall be maintained separate and apart from other GEDA funds.

§ 221108. Deposit.

(a) All monies deposited into the HAHS Fund shall be expended exclusively for the purposes enumerated in 5 GCA § 221003 and the general intent of this Act.

(b) The HAHS Fund, subject to legislative approval, may be invested or reinvested in bonds or in securities that are approved for the Retirement Fund, or according to modern investment practices of similar funds. The appropriations from the HAHS Fund received pursuant to § 221203 of Title 5 of the Guam Code Annotated shall be limited to fifty percent (50%) of the initial deposit from the proceeds of the sale for the first five (5) years. Thereafter, expenditures shall be limited to ninety percent (90%) of the earnings of the Fund.

SOURCE: Amended by P.L. 25-150:17; 26-003:6; 28-042:8.

§ 221109. Interest.

Notwithstanding the provisions of §§ 21103, 21107 and 21110, all of Title 5 of the Guam Code Annotated, or any other provisions of Guam law to the contrary, all interest earned by the HAHS Fund shall remain within the HAHS Fund.

ARTICLE 12
RESERVE FUND FOR NON- PARTICIPATING TOBACCO MANUFACTURERS

SOURCE: Article added by P.L. 25-150:15 (July 7, 2000).

§ 221201. Findings and Purpose.
§ 221202. Definitions
§ 221203. Requirements

§ 221201. Findings and Purpose.

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(a) Cigarette smoking presents serious public health concerns to the State and to the citizens of the State. The Surgeon General has determined that smoking causes lung cancer, heart disease and other serious diseases, and that there are hundreds of thousands of tobacco-related deaths in the United States each year. These diseases most often do not appear until many years after the person in question begins smoking.

(b) Cigarette smoking also presents serious financial concerns for the State. Under certain health-care programs, the State may have a legal obligation to provide medical assistance to eligible persons for health conditions associated with cigarette smoking, and those persons may have a legal entitlement to receive such medical assistance.

(c) Under these programs, the State pays millions of dollars each year to provide medical assistance for these persons for health conditions associated with cigarette smoking.

(d) It is the policy of the State that financial burdens imposed on the State by cigarette smoking be borne by tobacco product manufacturers rather than by the State to the extent that such manufacturers either determine to enter into a settlement with the State or are found culpable by the courts.

(e) On November 23, 1998, leading United States tobacco product manufacturers entered into a settlement agreement, entitled the "Master Settlement Agreement," with the State. The Master Settlement Agreement obligates these manufacturers, in return for a release of past, present and certain future claims against them as described therein, to pay substantial sums to the State (tied in part to their volume of sales); to fund a national foundation devoted to the interests of public health; and to make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking.

(f) It would be contrary to the policy of the State if tobacco product manufacturers who determine not to enter into such a settlement could use a resulting cost advantage to derive large, short-term profits in the years before liability may arise without ensuring that the State will have an eventual source of recovery from them if they are proven to have acted culpably. It is thus in

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the interest of the State to require that such manufacturers establish a reserve fund to guarantee a source of compensation and to prevent such manufacturers from deriving large, short-term profits and then becoming judgment-proof before liability may arise.

SOURCE: Added by P.L. 25-150:15 (July 7, 2000), amended by P.L. 26-003:2 (Mar. 14, 2001), repealed/reenacted by P.L. 26-007:1 (May 16, 2001).

§ 221202. Definitions.

(a) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement.

(b) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned" and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent (10%) or more, and the term "person" means an individual, partnership, committee, association, corporation or any other organization or group of persons.

(c) "Allocable share" means Allocable Share as that term is defined in the Master Settlement Agreement.

(d) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains

(1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

(2) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

(3) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (1) of this definition.

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The term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute one (1) individual "cigarette."

(e) "Master Settlement Agreement" means the settlement agreement (and related documents) entered into on November 23, 1998 by the State and leading United States tobacco product manufacturers.

(f) "Qualified escrow fund" means an escrow arrangement with a federally or State chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least $1,000,000,000 where such arrangement requires that such financial institution hold the escrowed funds principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing or directing the use of the funds principal except as consistent with section 221203(b).

(g) "Released claims" means Released Claims as that term is defined in the Master Settlement Agreement.

(h) "Releasing parties" means Releasing Parties as that term is defined in the Master Settlement Agreement.

(i) "Tobacco Product Manufacturer" means an entity that after the date of enactment of this article directly (and not exclusively through any affiliate):

(1) manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer (as that term is defined in the Master Settlement Agreement) that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of subsection II (mm) of the Master Settlement Agreement and that pays the taxes specified in subsection II (z) of the Master Settlement Agreement, and provided that the manufacturer of

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such cigarettes does not market or advertise such cigarettes in the United States);

(2) is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(3) becomes a successor of an entity described in Paragraph (1) or (2). The term "Tobacco Product Manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of Paragraph (1) through (3) above.

(j) "Units sold" means the number of individual cigarettes sold in the State by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer or similar intermediary or intermediaries) during the year in question, as measured by excise taxes collected by the State on packs (or "roll-your-own" tobacco containers) bearing the excise tax stamp of the State. The Department of Revenue and Taxation shall promulgate such regulations as are necessary to ascertain the amount of State excise tax paid on the cigarettes of such tobacco product manufacturer for each year.

(k) "State" means Guam or the government of Guam, as the case may be.

SOURCE: Added by P.L. 25-150:15 (July 7, 2000), amended by P.L. 26-003:3 (Mar. 14, 2001), repealed/reenacted by P.L. 26-007:2 (May 16, 2001).

§ 221203. Requirements.

Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this article shall do one of the following:

(a) become a participating manufacturer (as that term is defined in section II (jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

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(b)(1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation) --

2000: $.0104712 per unit sold after the date of enactment of this article;

For each of 2001 and 2002: $.0136125 per unit sold;

For each of 2003 through 2006: $.0167539 per unit sold;

For each of 2007 and each year thereafter: $.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to Paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances:

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this Subparagraph

(i) in the order in which they were placed into escrow and

(ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX (i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX (i)(3) of that Agreement other than the Inflation Adjustment)

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had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under Subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five (25) years after the date on which they were placed into escrow.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this Section shall:

(A) be required within fifteen (15) days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this subsection, may impose a civil penalty to be paid to the General Fund in an amount not to exceed five percent (5%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed one hundred percent (100%) of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within fifteen (15) days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this subsection, may impose a civil penalty to be paid to the General Fund in an amount not to exceed fifteen percent (15%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed

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three hundred percent (300%) of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed two (2) years; and

(D) be required to pay the State's costs and attorney's fees incurred during a successful prosecution of any action brought under this Paragraph (3).

(4) Each failure to make an annual deposit required under this section shall constitute a separate violation.

SOURCE: Added by P.L. 25-150:15 (July 7, 2000), amended by P.L. 26-003:4 (Mar. 14, 2001), repealed/reenacted by P.L. 26-007:3 (May 16, 2001).

ARTICLE 13
SECURITIZATION OF TOBACCO SETTLEMENT PAYMENTS

SOURCE: Added as Article 12, §§ 221201-221206, by P.L. 25-187:2 (Jan. 11, 2001), renumbered by Compiler because Article 12 already exists.

§ 221301. Definitions.
§ 221302. GEDA Request.
§ 221303. Distribution of Proceeds.
§ 221304. Health Security Trust Fund.
§ 221305. UOG Higher Education Endowment Funds.
§ 221306. GCC Endowment Funds.

§ 221301. Definitions.

As used in this Article:

(a) Guam Allocation means all moneys payable to Guam pursuant to the MSA, without giving effect to any sale of any portion thereof.

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(b) Master Settlement Agreement or MSA means the settlement agreement and related documents between Guam and leading United States tobacco product manufacturers dated November 23, 1998.

§ 221302. GEDA Request.

Guam Economic Development Authority shall solicit through the request for proposal process for qualified and licensed investment banking firms for investment services for the purpose of selling or securitizing the Guam Allocation made under the Master Settlement Agreement entered into between the government of Guam and leading tobacco manufacturers. The method of financing shall be non-recourse to, and require no credit support by, the government of Guam. The terms of the sale and securitization shall be submitted to *I Liheslaturan Guåhan* for approval.

§ 221303. Distribution of Proceeds.

Proceeds of the sale and securitization of the Guam Allocation received by the government of Guam shall be distributed in the following manner:

(a) fifty percent (50%) into the Health Security Trust Fund;

(b) fifteen percent (15%) into the UOG Endowment Fund;

(c) fifteen percent (15%) into the GCC Endowment Fund;

(d) ten percent (10%) into the Youth Tobacco Education and Prevention Fund; and

(e) ten percent (10%) into the Health and Human Services Fund.

2012 NOTE: In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections beginning with "Numbers" to "Lowercase Letters" in this section.

§ 221304. Health Security Trust Fund.

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(a) There is hereby created, separate and apart from other funds of the government of Guam, a fund known as the Health Security Trust Fund. The Health Security Trust Fund shall not be commingled with the General Fund and shall be kept in a separate bank account, and shall be subject to legislative appropriation and expended exclusively for the purpose of funding the operations and capital expenditure at the Guam Memorial Hospital.

(b) The Health Security Trust Fund, subject to legislative approval, may be invested or reinvested in bonds or in securities that are approved for the Retirement Fund, or according to modern investment practices of similar funds. The appropriations from the Health Security Trust Fund shall be limited to fifty percent (50%) of the initial deposit from the proceeds of the sale for the first five (5) years. Thereafter, expenditures shall be limited to ninety percent (90%) of the earnings of the Fund.

(c) The sum of Three Million Five Hundred Thousand Dollars ($3,500,000) is transferred from the present series 2001B sub-account of the Health Securities Trust Fund to the 2001A sub-account and is de-allocated and subsequently appropriated to the Guam Memorial Hospital Authority for support of the operations of the Guam Memorial Hospital. This transfer is conditional upon the approval of bond counsel.

SOURCE: Added as § 221204, by P.L. 25-187:2 (Jan. 11, 2001), codified to this section by the Compiler. Subsection (b) amended by P.L. 27-0069:6 (Feb. 6, 2004) and P.L. 28-042:3 (June 3, 2005). Subsection (c) added by P.L. 28-068:II:III:4 (Sept. 30, 2005), which apparently mis-numbered the section as 221204.

§ 221305. UOG Higher Education Endowment Funds.

There is hereby created, separate and apart from other funds of the government of Guam, a fund known as the 'UOG Higher Education Endowment Fund'. The UOG Higher Education Endowment Fund shall not be commingled with the General Fund and shall be kept in a separate bank account and administered by the University of Guam. The UOG Higher Education Endowment Fund may be invested or reinvested by the UOG Board of Regents in bonds or in securities that are approved for the Retirement Fund, or according to modern investment practices of similar funds.

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The appropriations from the UOG Higher Education Endowment Fund shall be limited to fifty percent (50%) of the initial deposit from the proceeds of the sale for the first five (5) years. Thereafter, expenditures shall be limited to ninety percent (90%) of the earnings of the Fund. The proceeds from the investments shall remain within the UOG Higher Education Endowment Fund. All monies deposited into the UOG Higher Education Endowment Fund shall be expended exclusively for enhancement of learning resources and technology, including, but not limited to, the following:

(a) purchase of computer equipment, books, subscriptions, periodical materials and other library supplies and materials;

(b) training; and

(c) management of library materials and resources.

The University of Guam shall determine the allocation of this appropriation in compliance with this Section.

SOURCE: Added as § 221205, by P.L. 25-187:2 (Jan. 11, 2001), codified to this section by the Compiler. Amended by P.L. 27-069:6(c) (Feb. 6, 2004) and P.L. 28-042:4 (June 3, 2005).

§ 221306. GCC Endowment Fund.

There is hereby created, separate and apart from other funds of the government of Guam, a fund known as the 'GCC Endowment Fund.' The GCC Endowment Fund shall not be commingled with the General Fund and shall be kept in a separate bank account and administered by the Guam Community College. The GCC Endowment Fund may be invested or reinvested by the GCC Board of Trustees in bonds or in securities that are approved for the Retirement Fund, or according to modern investment practices of similar funds. The appropriations from the GCC Endowment Fund shall be limited to fifty percent (50%) of the initial deposit from the proceeds of the sale for the first five (5) years. Thereafter, expenditures shall be limited to ninety percent (90%) of the earnings of the Fund. The proceeds from the investments shall remain within the GCC Endowment Fund. All monies deposited into the GCC Endowment Fund shall be expended exclusively for enhancement of learning resources and

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technology, and for the purpose of funding capital improvement projects expenditures at GCC, including, but not limited to, the following:

(a) purchase of computer equipment, books, subscriptions, periodical materials and other library supplies and materials;

(b) training;

(c) management of library materials and resources; and

(d) capital improvement projects.

GCC shall determine the allocation of this appropriation in compliance with this Section.

SOURCE: Added as § 221206, by P.L. 25-187:2 (Jan. 11, 2001), codified to this section by the Compiler. Amended by P.L. 27-011:2 (Apr. 26, 2003), P.L. 27-069:6(d) (Feb. 6, 2004), and P.L. 28-042:5 (June 3, 2005).

ARTICLE 14
COMPACT IMPACT GRANT ANTICIPATION BONDS

SOURCE: Entire Article enacted by P.L. 27-092:1.

NOTE: See Organic Act § 1423j. Moneys appropriated by Congress to Guam may not be appropriated again by the Guam Legislature.

> "Section 1423j of Title 48, United States Code, is paramount to local legislation [this Article] and provides that the United States Congress can make appropriations directly to the government of Guam. Where these appropriations or grants completely fund a specific purpose without the need of local funding, and where the appropriation or grant does not provide for local legislative control, there is no authority for the Guam Legislature to assume the responsibility for reappropriating these funds." *Wong, Deputy Consumer Counsel v. Camina, Director, Bureau of Budget & Management Research,* 2 Guam R. 132, 133 (1978).

§ 221401. Legislative Findings and Intent.
§ 221402. Compact Impact Grant Anticipation Bonds.
§ 221403. Compact Impact Grant Anticipation Bonds.

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§ 221404. Bond Proceeds.
§ 221405. Procurement.
§ 221406. Selection of Participants.
§ 221407. Need for Completion.
§ 221408. Bond Interest.
§ 221409. Legislative Approval Required.
§ 221410. Same.
§ 221411. GMHA Board Action.
§ 221412. DPHSS Action.
§ 221413. Creation of the Capital Infrastructure and Maintenance Fund.

§ 221401. Legislative Findings and Intent.

I Liheslaturan Guåhan [The Legislature] finds that education, health and safety are among the many government responsibilities whose facilities have required much improvement and expansion. As stakeholders, all of Guam's residents, temporary visitors, and new immigrants have an interest in the improvement of these vital services.

I Liheslaturan Guåhan [The Legislature] finds that almost all of Guam's public school buildings have fallen into some degree of disrepair. Some school facilities already have deteriorated to the point that they cannot be occupied, forcing schools to share classrooms with other schools. Whether the cause of disrepair is age, natural disaster, or a simple lack of regular care and maintenance, it is of great public interest that existing public schools be repaired and refurbished and new public school buildings be constructed to standards optimally conducive to student learning.

Further, *I Liheslaturan Guåhan* [The Legislature] finds that for many years, the number of public schools have not kept pace with the trends in Guam's population. As a result, many of Guam's public schools have become overcrowded, at times far surpassing the student capacities they originally had been designed to accommodate. Consequently, Guam's educators on a daily basis have had to overcome the challenges of teaching students in an environment that often detracts from, rather than enhances, the teaching-and-learning process.

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At the same time, but in a different area of need, the people of Guam also have had to cope with the Guam Memorial Hospital's CT Scan System that has nearly surpassed its useful life and also is in great need of technological update. *I Liheslatura* also recognizes the much-needed expansion and redesign of the emergency medical department, as well as the need to establish an endoscopy suite on Guam.

Moreover, *I Liheslaturan Guåhan* [The Legislature] realizes that the Department of Public Health and Social Services regional community health clinics are unable to accommodate the population increases in the island's villages, and therefore, would require expansion of the health centers, or in some cases, may require additional ones.

Less visible to the general public yet very important to the overall safety of the community, Guam's Adult Correctional Facility requires safety upgrades in order to meet mandates set forth by the U.S. Federal government in a Consent Decree entered into between the government of Guam and the Federal government as a result of a lawsuit. These safety upgrades, which include fire control and entry control devices, would ensure adequate security for Guam's people and safety for the facility's personnel and inmates. *I Liheslatura* finds that the interests of public security and the humane delivery of justice demand that these upgrades be completed without further delay.

I Liheslaturan Guåhan [The Legislature] further recognizes that the repair and refurbishment of existing public schools, the construction of new public schools, the establishment of healthcare facilities, and safety upgrades to the prison are expensive endeavors. However, they are investments of vital importance to the island's future. While the financing of large projects is difficult, it is neither an insurmountable obstacle, nor a necessarily reckless and risky financial undertaking. This legislative body is mindful of the need for new facilities but also equally mindful that the price of educating our students, improving health care, and ensuring security does not have to be a huge debt on the backs of our children and grandchildren.

Therefore, it is the intent of *I Liheslaturan Guåhan* [The Legislature] to enable the financing for the repair and

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refurbishment of existing public schools, the construction of new public schools, the replacement of the CT Scan System and the establishment of an endoscopy suite at the Guam Memorial Hospital, the expansion and the redesign of the emergency medical department of the Guam Memorial Hospital, the expansion of the Department of Public Health and Social Services regional community health clinics or the construction of new ones, and safety upgrades to our prison facility; thereby investing in a solid future for Guam's people, while ensuring that this same investment is not compromised by large public debt.

I Liheslatura further finds that the securitization of future revenue streams to be received by the government of Guam is an acceptable source of repayment of bonds issued with no recourse to full faith and credit of the government for repayment. *I Liheslatura* successfully issued bonds using this method with the securitization of the future payments of the master settlement agreement between the tobacco companies and the various states attorneys general. In addition, other state and local governments have done the same with revenues of Federal grants to states authorized by Congress.

For Guam, we have such an opportunity to maximize the future revenues of the Compact Impact reimbursements authorized for twenty (20) years by the recent re-authorization in United States Public Law 108-188 of the Compact of Free Association. The securitization of these future revenues can be used to issue bonds of a sufficient amount to accomplish the projects authorized herein that will result in an economic stimulus that creates new jobs and increased government revenues.

§ 221402. Compact Impact Grant Anticipation Bonds.

(a) Subject to the provisions of this Article, *I Maga'lahi*, [the Governor] through the Guam Economic Development and Commerce Authority (hereinafter 'GEDCA'), may issue Compact Impact Grant Anticipation Bonds for the purposes of financing the construction, repair and refurbishing of public school buildings, the replacement of the CT Scan System and the establishment of an endoscopy suite of the Guam Memorial Hospital, the expansion and the redesign of the emergency medical department at the Guam Memorial Hospital Authority, the expansion of the

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Department of Public Health and Social Services regional community health clinics or the construction of new ones, and the upgrading of the Department of Correction's Adult Correctional Facility (hereinafter 'DOC ACF').

(b)(1) The power to fix the date of sale of the Compact Impact Grant Anticipation Bonds, to award and sell the Compact Impact Grant Anticipation Bonds, to fix interest rates, and to take all other action necessary to sell and deliver the bonds shall be delegated by *I Maga'lahi* to GEDCA.

(2)(A) GEDCA shall issue the Request for Proposals for the Compact Impact Grant Anticipation Bonds, within fifteen (15) days after the enactment of this Subsection, based on the following terms and conditions:

The terms and conditions of the bonds shall be as determined by GEDCA by the execution of a certificate, or indenture authorizing the issuance of the bonds upon, or prior to the issuance of the bonds; provided, however, that such terms and conditions shall be consistent with this Article, and that the bonds shall mature not later than the year 2024, and shall bear interest at such rates and be sold for such price or prices, as shall result in a yield to the bondholders not exceeding seven percent (7%) per annum.

(B) GEDCA shall be authorized to receive bids or proposals on the Compact Impact Grant Anticipation

(c) (1) Subject to the provisions of this Subsection (3), the principal of and interest on the Compact Impact Grant Anticipation Bonds shall be payable solely from:

(A) money available as Compact Impact Aid for Guam under Section 104(c)(6) of U.S. Public Law 99-239, and as recently reauthorized in U.S. Public Law 108-188 for the next twenty (20) years; and

(B) any other revenues, funds, or other security pledged for such purpose that do not constitute revenues or funds of the government of Guam.

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(2) The owners or holders of the Compact Impact Grant Anticipation Bonds may not look to any other revenues of the government of Guam for the payment of the bonds.

(3) The method of financing shall be non-recourse to, and require no credit support by the government of Guam.

(d)(1) GEDCA shall issue Compact Impact Grant Anticipation Bonds pursuant to a certificate executed by GEDCA, a trust indenture between GEDCA and any commercial bank or trust company having full trust powers, or any other instrument issued by GEDCA.

(2) As GEDCA deems appropriate, the certificate, trust indenture, or other instrument authorizing the Compact Impact Grant Anticipation Bonds may contain such provisions setting forth the rights and remedies of the owners or holders of the Compact Impact Grant Anticipation Bonds, may contain such provisions for protecting and enforcing the rights and remedies of the owners or holders of the Compact Impact Grant Anticipation Bonds as GEDCA deems appropriate, and may contain such other provisions that GEDCA deems appropriate for the security of the owners or holders of the Compact Impact Grant Anticipation Bonds. Such provisions may include, but not be limited to, provisions regarding letters of credit, insurance, stand-by credit agreements, or other forms of credit ensuring timely payment of the Compact Impact Grant Anticipation Bonds, including the redemption price or the purchase price, and provisions regarding the reimbursement of providers of such credit out of revenues available for the payment of principal of and interest on the Compact Impact Grant Anticipation Bonds for any amounts paid by such providers with respect to such bonds.

(e) The Compact Impact Grant Anticipation Bonds may be issued in such aggregate principal amount, may be issued in one (1) or more series, may bear such dates, may be in such denomination or denominations, may mature on any date or dates, may mature in such amount or amounts, may be in such form, may be payable at such place or places, may be subject to such terms of redemption with or without a premium, may contain such

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provisions as GEDCA deems appropriate regarding insurance to ensure the timely payment of the bonds, and may contain such other provisions not inconsistent with the provisions of this Article as GEDCA may determine.

(f) The rate or rates of interest borne by the Compact Impact Grant Anticipation Bonds may be fixed, adjustable, or variable or any combination thereof without regard to any interest rate limitation appearing in any other laws of Guam. If any rate or rates are adjustable or variable, the standard, index, method, or formula shall be determined by GEDCA.

(g) Compact Impact Grant Anticipation Bonds may be sold at public or private sale and may be sold at, above, or below the principal amounts thereof. The sale of such bonds shall not be subject to the Procurement Law.

SOURCE: Added by P.L. 27-092:1. Subsections 2(a) and (b) amended by P.L. 27-106:VII:10.

NOTE: Pursuant to the authority granted by 1 GCA § 1606, numbers and/or letters were altered to adhere to the Compiler's alpha-numeric scheme.

§ 221403. Compact Impact Grants.

Compact Impact Grant Anticipation Bonds issued by GEDCA pursuant to the provisions of this Article and every contract relating to the issuance of such bonds shall provide that all financial obligations of the government of Guam in regard to the portion of the principal of and interest on such bonds that shall be paid from money available as Compact Impact Aid for Guam under Section (104)(c)(6) of U.S. Public Law 99-239 and as recently reauthorized in U.S. Public Law 108-188 for the next twenty (20) years, pursuant to Federal laws and any agreement shall be subject to continuing Federal appropriations of the money available as Compact Impact Aid for Guam under Section (104)(c)(6) of U.S. Public Law 99-239 and as recently reauthorized in U.S. Public Law 108-188 for the next twenty (20) years, at a level equal to or greater than the amount needed to pay principal and interest on the Compact Impact Grant Anticipation Bonds.

§ 221404. Bond Proceeds.

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All proceeds from the issuance of the Compact Impact Grant Anticipation Bonds in accordance with the provisions of this Article shall be credited to the Capital Infrastructure and Maintenance Fund to be used for the following purposes:

(a) Construction of public schools and collateral equipment $88,000,000.00

[(1) two (2) high schools not to exceed $56,000,000.00;

(2) one (1) middle school not to exceed $16,000,000.00; and

(3) two (2) elementary schools not to exceed $16,000,000.00]

(b) Repairs & refurbishments $10,000,000.00
[payments for the repairs and refurbishments of existing public schools.]

(c) Upgrade of DOC ACF $ 5,000,000.00
[construction of a new eighty-five (85) bed facility and upgrades required to meet the U.S. Department of Justice mandates towards resolution of the Consent Decree.]

(d) replacement of CT Scan System $ 1,000,000.00
[as established in the Guam Memorial Hospital Authority Ten-Year Capital Improvements Plan.]

(e) redesign and expansion of the emergency medical department $ 3,000,000.00
[as established in the Guam Memorial Hospital Authority Ten-Year Capital Improvements Plan.]

(f) establishment of an endoscopy suite $ 500,000.00
[as established in the Guam Memorial Hospital Authority Ten-Year Capital Improvements Plan.]

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(g) expansion or construction of health clinics [Department of Public Health and Social Services regional community health clinics.] $ 2,000,000.00

(h) and any expenses relating to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds.

2012 NOTE: In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections beginning with "Numbers" to "Lowercase Letters" and subsections beginning with "Lowercase Letters" to "Numbers" in this section.

§ 221405. Procurement.

All projects enumerated in § 221404 of this Article shall be performed by private companies, subject to Chapter 5 of Title 5, Guam Code Annotated (Guam Procurement Law).

§ 221406. Selection of Participants.

In view of the urgency for the issuance of the bonds for the purpose of financing the projects enumerated in § 221404 of this Article, GEDCA is hereby authorized to utilize such method as it deems appropriate for the selection of all participants in connection with the issuance and sale of those bonds, including trustees, depositories, paying agents, underwriters, counsel, any credit enhancement provider and any other participants; provided, however, that such selection shall be subject to any provision of law which requires bidding, other competitive process, or any other procedure with respect to such selection, except that GEDCA may limit the Requests for Proposals for services associated with the issuance of the bonds to those firms that have previously participated in bond issues for Guam.

§ 221407. Need for Completion.

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It is the policy of *I Liheslaturan Guåhan* [The Legislature] to ensure that the projects enumerated in § 221404 of this Article are completed. In this respect, a written request shall be submitted to *I Liheslaturan Guåhan* [The Legislature], which may authorize and allow the transfer of funds between projects contained in § 221404 of this Article.

§ 221408. Bond Interest.

Interest earned on the bonds authorized by this Article shall be used exclusively for the purposes of financing the projects enumerated in § 221404 of this Article.

§ 221409. Legislative Approval Required.

All terms and agreements to be entered into pursuant to this Article shall be subject to legislative approval.

§ 221410. Same.

The locations of the two (2) public high schools, one (1) public middle school, and two (2) public elementary schools, which are to be constructed and financed pursuant to this Article, shall be determined by the Guam Education Policy Board pursuant to the priorities established in the Ten-Year Capital Facilities Plan of the Department of Education. In addition, the Guam Education Policy Board shall outsource the building and grounds maintenance, custodial, and food services of the newly constructed schools that are funded by this Article.

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.

§ 221411. GMHA Board Action.

The Guam Memorial Hospital Authority Board of Trustees, through a board resolution, shall determine the details of the establishment of an endoscopy suite, and the details of the redesign and expansion of the emergency medical department and the replacement of the CT Scan System.

§ 221412. DPHSS Action.

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The Department of Public Health and Social Services Director and the Board of Trustees for the Regional Community Health Centers, through a board resolution, shall determine the details of the expansion or the construction of new regional community health clinics.

§ 221413. Creation of the 'Capital Infrastructure and Maintenance Fund'.

There is hereby established, separate and apart from other funds of the government of Guam, a fund known as the 'Capital Infrastructure and Maintenance Fund' (hereinafter 'Fund'). The Fund shall not be commingled with the General Fund or any other fund of the government of Guam. The Fund shall be held in an account or accounts at a Guam financial institution or institutions separate and apart from all other accounts and funds of the government of Guam. The Fund shall not be subject to I Maga'lahi's transfer authority. All proceeds of the Compact Impact Grant Anticipation Bonds shall be deposited into this Fund and are hereby appropriated for the purposes of financing the projects enumerated in § 221404 of this Article.

ARTICLE 15
INDIRECT COST FUND

SOURCE: This entire Article was enacted by P.L. 29-113:VI:62 (Sept. 30, 2008).

§ 221501. Indirect Cost Fund Creation.
§ 221502. Separate Fund and Bank Account.
§ 221503. Purpose.
§ 221504. Deposits and Expenditures.
§ 221505. Administration.

§ 221501. Creation.

There is hereby created, separate and apart from other funds of the government of Guam, a fund known as the "Indirect Cost Fund".

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§ 221502. Separate Fund and Bank Account.

The Indirect Cost Fund shall not be commingled with the General Fund or any other fund of the government of Guam. The Indirect Cost Fund shall be maintained in a separate bank account.

§ 221503. Purpose.

The Indirect Cost Account shall be expended by appropriation by law for the following purposes:

(a) Training such as Continuing Professional Education Credits, CPE.

(b) Negotiating and Administering the government of Guam's indirect cost rate.

(c) Purchasing of Supplies and Equipment associated with Negotiating and Administering the government of Guam's indirect cost rate.

(d) Automated budget development and maintenance.

(e) General Operations for the agencies stipulated in § 221504, Article 15, Chapter 22 of Title 5.

SOURCE: Added by P.L. 29-113:VI:62 (Sept. 30, 2008).Amended by P.L. 30-055:XII:1 (Sept. 4, 2009), P.L. 30-196:XII:1 (Sept. 1, 2010).

§ 221504. Deposits and Expenditures.

Deposits shall be made into the Indirect Cost Account from Federal Reimbursement, for Executive Line Agency Claims or Claims on Indirect Cost not to exceed five percent (5%) of the total program monies based on a negotiated and approved Indirect Cost Rate from U.S. Department of Interior to be applied in administering Federal Programs. Monies deposited in the Indirect Cost Account shall be expended for the following agencies:

(a) Department of Administration;

(b) Bureau of Budget & Management Research;

(c) Office of Public Accountability;

(d) Guam State Clearinghouse.

(e) Guam Department of Education

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SOURCE: Amended by P.L. 30-055:XII:1 (Sept. 4, 2009), P.L. 30-196:XII:1 (Sept. 1, 2010).

2009 NOTE: Reference to Office of Public Auditor changed to Office of Public Accountability pursuant to P.L. 30-027:2 (June 16, 2009).

§ 221505. Administration.

The Director of Administration shall account for and administer the Indirect Cost Fund. The Director shall keep all books, records, files and accounts of the Indirect Cost Fund. The Director shall prepare monthly reports relative to the Indirect Cost Fund reflecting the transactions and the financial condition of the Indirect Cost Fund, which monthly reports shall be transmitted to *I Liheslatura* and *I Maga'lahen Guåhan*.

ARTICLE 16
SUPPLEMENTAL APPROPRIATIONS REVENUE FUND

SOURCE: Entire Article added by P.L. 31-074:II:2(b) (June 6, 2011).

§ 221601. Creation.
§ 221602. Separate Fund and Bank Account.
§ 221603. Purpose.
§ 221604. Administration of SAR Fund.
§ 221605. Annual Audit.

§ 221601. Creation.

There is hereby created, separate and apart from all other funds of the government of Guam, a fund known as the Supplemental Appropriations Revenue Fund (SAR Fund).

§ 221602. Separate Fund and Bank Account.

The SAR Fund shall not be commingled with the General Fund or any other funds of the government of Guam and shall be maintained in a separate bank account, administered by the Director of the Department of Administration in accordance with this Article.

§ 221603. Purpose.

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The SAR Fund shall act as a clearinghouse account for all supplemental revenues and expenditures identified by the government of Guam in any Supplemental Appropriations Act and other Acts that contain revenue sources that have not been identified in the General Appropriations Act of each fiscal year.

§ 221604. Administration of SAR Fund.

The revenue sources identified in any Supplemental Appropriations Act and other Acts that identify new revenue sources that have not been identified in the General Appropriations Act during each fiscal year shall be deposited or transferred into the SAR Fund and shall be expended exclusively for the purposes set forth by *I Liheslaturan Guåhan* in any Supplemental Appropriations Act or other Acts that identify new revenue sources during each fiscal year.

The SAR Fund's interest and investment earnings shall be subject to legislative appropriation and shall be expended exclusively for the purposes set forth by *I Liheslaturan Guåhan* in any Supplemental Appropriations Act or other Acts that identify new revenue sources during each fiscal year.

The SAR Fund shall not be subject to *I Maga'lahen Guåhan's* transfer authority or any other law allowing use or transfer of special funds. Revenues to and expenditures from the SAR fund is restricted to only those authorized by *I Liheslaturan Guåhan* in this or subsequent Acts.

§ 221605. Annual Audit.

The Office of Public Accountability shall perform an annual audit of the SAR Fund and the compliance of the Director of the Department of Administration with the expenditure of such funds within the SAR Fund in accordance with the administration and exclusive purposes of this Article. Said audit shall include, but is not limited to, the revenues to the SAR Fund and the expenditures from the SAR Fund. The OPA shall prepare and provide a written report of compliance no later than seventy-five (75) days after the end of the fiscal year to *I Maga'lahen Guåhan* and to the Speaker of *I Liheslaturan Guåhan*.

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ARTICLE 17
OPIOID PREVENTION AND TREATMENT ACT

SOURCE: Entire Article added by P.L. 36-064:2 (Dec. 23, 2021).

§ 221701. Title and Purpose.
§ 221702. Opioid Recovery Trust Fund.
§ 221703. Eligible Expenditures.
§ 221704. Opioid Recovery Advisory Council.
§ 221705. Reporting Requirements.
§ 221706. Designation of OAG as Single Agency.
§ 221707. Annual Audit.
§ 221708. Submission of Spending Plan.

§ 221701. Title and Purpose.

This Act shall be known as the "*Opioid Prevention and Treatment Act*." The purpose of this Act is to provide for the use of dedicated revenue for treatment and prevention of opioid use disorder and co-occurring disorders.

§ 221702. Opioid Recovery Trust Fund.

(a) There is hereby created the Opioid Recovery Trust Fund (Fund), which shall be maintained separate and apart from any other funds of the Government of Guam, including the General Fund. The Fund shall be a continuing fund; amounts credited to the Fund shall not be subject to further appropriation and monies remaining in the Fund at the end of a fiscal year shall not be transferred to the General Fund. The Fund shall not be subject to any transfer authority of *I Maga'hagan Guahan*.

(b) The Fund shall include all money, payments, or other things of value in the nature of civil damages or other payment, except criminal penalties, received on behalf of Guam by the Office of the Attorney General (OAG) of Guam relating to the manufacturing, marketing, distributing, promoting, or dispensing of opioids, whether such is received by way of verdict, judgment, compromise, or settlement in or out of court, of any case or controversy. The Fund shall also include any interest earned on such amounts.

(c) Monies in the Fund shall be used to supplement and not supplant or replace any other funds, including federal or local

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funding, which would otherwise have been expended for substance use disorder prevention, treatment, recovery or harm reduction services or programs. Further, general operating funds or baseline funding shall not be reduced due to monies expended from the Fund.

(d) The Office of the Attorney General shall promptly remit all money, payments, or other things of value to the Treasurer of Guam for credit to the Fund.

(e) The Office of the Attorney General, in consultation with the Opioid Recovery Advisory Council established by this Act, shall administer the Fund.

(f) In administering the Fund, the Office of the Attorney General may establish internal accounts to segregate funds received from different judgments or settlement agreements to the extent that different judgments or settlement agreements direct specific allocation of expenditures.

§ 221703. Eligible Expenditures.

(a) Monies in the Fund shall be expended to mitigate the impacts of the opioid epidemic on Guam, including, but not limited to, expanding access to opioid use disorder prevention, intervention, treatment, and recovery options. Monies in the Fund may be expended to support reasonable costs associated with the administration of the Fund, including to offset the costs of legal and administrative burdens imposed upon the Attorney General's Office, which shall not exceed ten percent (10%) of the total annual deposits into the Fund.

(b) Any funds appropriated, expended, or distributed from the Opioid Recovery Trust Fund shall be spent in accordance with the terms of any verdict, judgment, compromise, or settlement in or out of court, of any case or controversy brought pursuant to the Deceptive Trade Practices - Consumer Protection Act or any other law relating to the manufacturing, marketing, distributing, promoting, or dispensing of opioids.

§ 221704. Opioid Recovery Advisory Council.

(a) There shall be an Opioid Recovery Advisory Council (Council) established to determine the allocation or expenditures

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of the Fund.

(b) The Council shall consist of the following eleven (11) members, which shall include nine (9) voting members, one (1) non-voting member, and one (1) non-voting member chairperson:

(1) the Attorney General, or designee, shall serve as the non-voting chairperson;

(2) the Director, or designee, of the Guam Behavioral Health and Wellness Center;

(3) the Director, or designee, of the Department of Public Health and Social Services;

(4) the Administrator of the Courts, or designee, of the Judiciary of Guam, who shall serve as a non-voting member;

(5) the Administrator, or designee, of the Guam Memorial Hospital Authority;

(6) one (1) member appointed by *I Maga'hagan Guahan*, who is qualified by experience with opioid use disorder, either first-hand or as a family member of an individual with opioid use disorder;

(7) one (1) member appointed by *I Maga'hagan Guahan*, who is qualified by experience with working as or with direct service providers or non-profit organizations;

(8) one (1) member appointed by the Speaker of *I Liheslaturan Guahan*;

(9) one (1) member appointed by the Minority Leader of *I Liheslaturan Guahan*;

(10) one (1) member appointed by the Mayors Council of Guam, who is qualified by experience with opioid use disorder, either first-hand or as a family member of an individual with opioid use disorder; and

(11) the Executive Director, or designee, of the Public Defender Service Corporation.

(c) In making appointments, appointing authorities shall consider having racially and socioeconomically diverse

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representation on the Council.

(d) A majority of voting members shall constitute a quorum. Determinations shall be made upon a majority vote.

(e) The Council shall hold no fewer than two (2) meetings annually, subject to the provisions of 5 GCA Chapter 8 - the Open Government Law of Guam.

(f) Council members shall serve for terms of three (3) years, and any member shall be eligible for reappointment. In the event of a vacancy, the original appointing authority shall appoint a new member to fulfill the remainder of the unexpired term. Any member who is appointed may be removed by the appointing authority upon written notice to the chairperson.

(g) Council members shall serve without compensation.

(h) In making determinations for expenditures of the Fund, Council members shall consider programs, including, but not limited to, those:

(1) to prevent substance use disorders through an evidence-based youth-focused public health education and prevention campaign, including school-based prevention and health care services and programs to reduce the risk of substance use by school-aged children;

(2) to develop and implement public education campaigns to reduce stigma against individuals with a substance use disorder, provide information about the risks of substance use, best practices for addressing substance use disorders, and information on how to locate services that reduce the adverse health consequences associated with substance use disorders or provide treatment for substance use disorders;

(3) to provide substance use disorder treatment and early recovery programs for youth and adults, with an emphasis on programs that provide a continuum of care that includes screening and assessment for substance use disorders and co-occurring disorders, active treatment, family involvement, case management, relapse management for substance use and other co-occurring behavioral health disorders, vocational

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services, literacy services, parenting classes, family therapy and counseling services, crisis services, recovery services, evidence-based treatments, medication-assisted treatments, including medication assisted treatment provided in correctional facilities, psychiatric medication, psychotherapy, and transitional services programs;

(4) to provide harm reduction counseling and services to reduce the adverse health consequences associated with substance use disorders, including overdose prevention and prevention of communicable diseases related to substance use, provided by a substance use disorder service provider or qualified community-based organization;

(5) to provide housing services for people who are recovering from a substance use disorder. Such housing services shall be appropriate, based on the individual's current need and stage of recovery. Such housing services may include, but are not limited to, supportive housing services;

(6) to support community-based or diversion programs that reduce the likelihood of criminal justice involvement for individuals who have or are at risk of having a substance use disorder;

(7) to provide programs for pregnant women and new parents who currently or formerly have had a substance use disorder, and newborns with neonatal abstinence syndrome; and

(8) to provide vocational and educational training for individuals with, or at risk for, a substance use disorder.

§ 221705. Reporting Requirements.

Annually, no later than October 31, the Office of the Attorney General shall submit a report on the activity, revenue, and expenditures to and from the Fund to *I Maga'hagan Guahan* and the Speaker of *I Liheslaturan Guahan.* The report shall also be posted on the OAG website. The report shall include, but not be limited to:

(a) the revenue credited to the Fund;

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(b) the amount of expenditures attributable to the administrative costs of administering the Fund, including administrative support to the OAG and the Council;

(c) an itemized list of expenditures; and

(d) data and an assessment of the effectiveness of activities funded.

§ 221706. Designation of OAG as Single Agency.

The Office of the Attorney General is designated as the single agency for Guam relative to bringing claims against entities for manufacturing, marketing, distributing, promoting, or dispensing of opioids pursuant to Guam law, including, but not limited to, the Deceptive Trade Practices - Consumer Protection Act.

§ 221707. Annual Audit.

The Office of Public Accountability (OPA) shall perform an annual audit of the Opioid Recovery Trust Fund and the compliance of the Opioid Recovery Advisory Council with the expenditure of such funds within the Fund in accordance with the administration and exclusive purposes of this Article. Said audit shall include, but is not limited to, the revenues of the Fund and the expenditures from the Fund. The OPA shall prepare and provide a written report of compliance to *I Maga'hagan Guahan* and the Speaker of *I Liheslaturan Guahan* no later than seventy-five (75) days after the end of the fiscal year.

§ 221708. Submission of Spending Plan.

The Opioid Recovery Advisory Council shall submit a detailed spending plan for the Opioid Recovery Trust Fund for Fiscal Years 2022 and 2023, to the Speaker of *I Liheslaturan Guahan* no later than August 1, 2022. The Opioid Recovery Advisory Council shall submit annually, a detailed spending plan for the Opioid Recovery Trust Fund for every subsequent fiscal year to the Speaker of *I Liheslaturan Guahan* no later than August 1st of each year.

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