DIVISION 3
LEGAL AND CONSUMER AFFAIRS

CHAPTER 30
ATTORNEY GENERAL

2024 NOTE: Pursuant to 5 GCA § 1510, I Maga'hågan/Maga'låhen Guåhan means the "Governor of Guam" and I Maga'håga/Maga'låhi means the "Governor." Pursuant to 2 GCA § 1101, I Liheslaturan Guåhan means the "Guam Legislature" and I Liheslatura means the "Legislature."

Article 1 Attorney General
Article 2 Legal Fees and Costs for Certain Non-General Fund/Special Fund Supported Activities

ARTICLE 1
ATTORNEY GENERAL

SOURCE: P.L. 13-117:1 (Dec. 27, 1975) enacted a new GC § 5101 that created the Department of Law, and stated that the Attorney General would be the head of the Department of Law and the Chief Legal Officer of the Government of Guam. P.L. 13-117:2 also enacted a new Title VIII of the Government Code, GC § 7000 *et seq*., establishing the Department of Law.

P.L. 16-072:1 (March 5, 1972) removed prosecutorial functions from the Department of Law and vested these functions in a new Office of the Territorial Prosecutor by adding a new Chapter 2 to Title VIII of the Government Code, GC § 7101 *et seq*. This public law further provided that "if any provision of this Act . . . is held invalid and the invalidity substantially affects other provisions or applications of the Act, then the provisions of this Act shall not be severable and the entire Act shall expire by operation of law. Provisions of existing statutes repealed or amended by this Act shall then be automatically revived." P.L. 16-072:20.

Section 7100(b) was found to be inorganic in *Territorial Prosecutor v. Superior Court of Guam*, D.C. Civ. App. 82-0215 (D.C. Guam App. Div. May 26, 1983). Because such invalidity substantially affected other provisions of P.L. 16-072, this entire public law expired by operation of law, and those statutes that had been repealed or amended by P.L. 16-072 were automatically revived. GC § 7000 *et seq*. were codified sometime in the early 1990s as Chapter 30 of Title 5 of the Guam Code Annotated.

P.L. 24-288 (Oct. 16, 1998) was a second attempt to remove prosecutorial responsibilities from the Office of the Attorney General, by adding a new Chapter 36 to Title 5 GCA that created a new Office of the Public Prosecutor, and amending other provisions in Chapter 30 regarding the Attorney General.

Section 2 of this law, which provided for the election of the first Public Prosecutor, stated in its entirety:

> Section 2. Election of First Public Prosecutor. Notwithstanding any other provision of law, the election of the first Public Prosecutor shall occur at a special election to be conducted by the Guam Election Commission one hundred twenty (120) days after the effective date of this Act. The first Public Prosecutor shall be sworn into office thirty (30) days after the election of the first Public Prosecutor. The first Public Prosecutor shall serve until the election and swearing into office of a new Public Prosecutor, such election to occur at the next General Election during which I Maga'hågan/Maga'låhen Guåhan is elected. Thereafter, the election of the Public Prosecutor shall occur in the manner described in Chapter 36; provided, that in the event that the position of an elective Attorney General is permitted by the Organic Act, no Public Prosecutor shall be elected.

Section 2 was effective immediately, and the remainder of P.L. 24-288 was to be effective upon the election and swearing into office of the Public Prosecutor.

> The election of the Public Prosecutor did not occur, as soon after passage of P.L. 24-288, Congress amended the Organic Act, 48 U.S.C. § 1421g, allowing for an elected Attorney General. P.L. 105-291 (Oct. 27, 1998). Subsequently, P.L. 25-044 (June 9, 1999) was enacted, which repealed P.L. 24-288 and correspondingly, Chapter 36 of Title 5 GCA.

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As to the first election of the Attorney General and effective date of the amendments, P.L. 25-044:8 and 9 (June 9, 1999) state:

> Section 8. Election of the First Elected Attorney General of Guam. Notwithstanding any other provision of law, the election of the first elected Attorney General of Guam shall occur at the next General Election during which I Maga'hågan/Maga'låhen Guåhan is elected. The first elected Attorney General shall be sworn into and take office on the first Monday of the January following the General Election at which the Attorney General was elected and shall remain in office until the election and swearing in of a new Attorney General, unless removed from office as provided for in § 3 of this Act.
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> Section 9. Effective Dates. Section 8 of this Act is effective immediately upon the enactment of this Act. All other Sections are effective upon the election and swearing into office of the first elected Attorney General.

§ 30101. Attorney General.
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§ 30121.1. Administration of Personnel.
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§ 30101. Attorney General.

(a) The Office of the Attorney General of the government of Guam shall be administered by the Attorney General of Guam, who shall be elected by the people of Guam for a term of four (4) years.

(b) A candidate for the position of Attorney General of Guam shall declare no political party affiliation. Candidates for Attorney General of Guam shall be subject to the same campaign and personal financial reporting requirements as apply to candidates for I Maga'hågan/Maga'låhen Guåhan, as well as all laws pertaining to campaign contributions. No nominating petition shall be required of a candidate for Attorney General of Guam. A candidate for the position of Attorney General of Guam shall file his candidacy with the Guam Election Commission no earlier than one hundred sixty (160) days before the general election, and no later than ninety (90) days before the general election. All qualified candidates complying with the provisions of this Section shall be placed on the ballot for the office of Attorney General to be cast at the

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General Election. The candidate receiving the most votes, subject to the qualifications established by this Chapter, shall be certified by the Guam Election Commission as having won election to the position of Attorney General. The Attorney General shall be sworn into and take office on the first Monday of the January following the General Election at which the Attorney General was elected and shall remain in office until the election and swearing in of a new Attorney General, unless removed from Office as provided for in this Section. The Attorney General shall:

(1) be at least thirty (30) years of age;

(2) be a citizen of the United States and a resident of Guam;

(3) be an active member in good standing of the Guam Bar Association on Guam for at least five (5) years immediately preceding his or her candidacy for Office, or an inactive member of the Guam Bar Association who, in the five (5) years preceding his election as an Attorney General has served as an elected official elected by the people of Guam or as a Public Auditor of Guam, or as a Justice of the Supreme Court of Guam or Judge of the Superior Court of Guam;

(4) not have been convicted of a felony; and

(5) not have been suspended from the practice of law in any jurisdiction for violation of ethical rules governing the practice of attorneys.

(c) The Attorney General of Guam may be removed in the same manner as provided under the Organic Act of Guam for the removal of I Maga'hågan/Maga'låhen Guåhan. As provided in the Organic Act of Guam, a vacancy in the position of Attorney General shall be filled:

(1) by appointment by I Maga'hågan/Maga'låhen Guåhan if such vacancy occurs less than six (6) months before a General Election for the Office of the Attorney General of Guam; or

(2) by a special election held no sooner than three (3) months after such vacancy occurs, and no later than six (6) months before a general election for Attorney General of Guam, and by appointment by I Maga'hågan/Maga'låhen Guåhan pending a special election under this Subsection.

SOURCE: GC § 7000. Amended by P.L. 13-117:2 (Dec. 27, 1975); P.L. 13-133:4 (Feb. 3, 1976). Repealed and reenacted by P.L. 25-044:3 (June 9, 1999). Subsection (b) amended by P.L. 28-128:4 (June 27, 2006). Subsection (a) amended by P.L. 29-019:VI:52 (Sept. 29, 2007). Subsections (b) and (c) amended by P.L. 37-085:2 (Apr. 3, 2024).

§ 30101.1. Transition for an Attorney General-elect.

For the period following the certification of the election and the swearing-in of the Attorney General-elect, the incumbent Attorney General, should he or she not be the successful candidate in that election, shall assist the Attorney General-elect in the preparation of his or her new duties. During this transition period, the incumbent Attorney General shall assist the Attorney General-elect in acquainting the latter with the operations of the Office of the Attorney General and all necessary functions that come with holding the office. The incumbent Attorney General shall provide all documents at the request of the Attorney General-elect necessary for the preparation of Attorney General-elect in assuming office. The Attorney General-elect, should he or she deem necessary, is authorized to appoint a Committee which shall be of assistance during the transition period between election and assumption of office. No funds shall be appropriated for the purposes of transition. Should an incumbent Attorney General not be successful in an election, all property, equipment, and documents belonging to the Office shall not be removed by the exiting Attorney General.

SOURCE: Added by P.L. 29-031:3 (Oct. 25, 2007).

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§ 30102. Department of Law, Cognizance.

Notwithstanding any other provision of law, the Attorney General shall have cognizance of all legal matters, excluding the Legislative and Judicial Branches of the government of Guam, involving the Executive Branch of the government of Guam, its agencies, instrumentalities, public corporations, autonomous agencies and the Mayors Council, all hereinafter referred to as "agency". Where any other law permits any agency or autonomous public corporation to retain counsel other than the Attorney General, this shall not preclude said agency or public corporation from requesting the services of the offices of the Attorney General, provided that said agency or autonomous public corporation shall reimburse the Office of the Attorney General for such services from funds of said agency or autonomous public corporation. Said reimbursement shall be deposited in the General Fund and credited to the Office of the Attorney General. In addition, and notwithstanding any other law to the contrary, any agency or autonomous public corporation of the government of Guam may advance funds to the office of the Attorney General for services and incidental travel to be rendered by said office on behalf of said agency or autonomous public corporation.

SOURCE: GC § 7001. Repealed and reenacted by P.L. 13-117:2 (Dec. 27, 1975). Amended by P.L. 23-045:IV:15 (Oct. 18, 1995); P.L. 25:003:IV:19 (Mar. 25, 1999).

CROSS-REFERENCE: 5 GCA § 23110.

At the time this § 30103 was enacted, a provision similar to that now found in 5 GCA § 23110, limiting agencies' ability to fund travel for persons not employees of that agency was in effect. Therefore, the final sentence of this Section was placed in P.L. 13-117 to allow attorneys within the Attorney General's office to have travel paid for by the agencies they serve if the travel is undertaken on behalf of that agency. For instance, prosecuting an appeal for, say, the Department of Public Health and Social Services, would permit the use of their funds for travel, even though the Attorney General's appropriations for travel may have been exhausted, or not available for that purpose. This section recognizes the fact that much of the case load of the Attorney General, and much of the need for travel, arises out of activity for other agencies of the government.

2013 NOTE: Subsection designation was deleted to adhere to the Compiler's alpha-numeric scheme in accordance to the authority granted by 1 GCA § 1606.

§ 30103. Common Law Powers of Attorney General.

The Attorney General shall have, in addition to the powers expressly conferred upon him by this Chapter, those common law powers which include, but are not limited to, the right to bring suit to challenge laws which he believes to be unconstitutional and to bring action on behalf of Guam representing the citizens as a whole for redress of grievances which the citizens individually cannot achieve, unless expressly limited by any law of Guam to the contrary. The Attorney General may permit attorneys admitted to private practice in Guam or licensed collection agents to collect accounts or other obligations owing to the government of Guam, or to any agency or instrumentality thereof, if such procedure would be in the interest of the Government and expedite the collection of said account or obligation. Any agency or instrumentality not operating under yearly appropriations from I Liheslatura may retain counsel of its choice for the collection of obligations in the same manner as it may be permitted to retain counsel in other matters as permitted by its enabling legislation. Guam Memorial Hospital may permit the Attorney General or attorneys admitted to private practice in Guam and agents or licensed collection agents to collect accounts or other obligations owing to Guam Memorial Hospital.

SOURCE: GC § 7002, as repealed and reenacted by P.L. 13-117:2 (Dec. 27, 1975), entitled "Same." Amended by P.L. 13-149:9 (June 26, 1976).

2024 NOTE: Reference to the "Territory" replaced with "Guam" pursuant to 1 GCA § 420. Reference to the "Legislature" replaced with I Liheslatura pursuant to 2 GCA § 1101.

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§ 30104. Attorney General as Public Prosecutor.

The Attorney General shall have cognizance of all matters pertaining to public prosecution, including the prosecution of any public officials.

SOURCE: GC § 7003, as repealed and reenacted by P.L. 13-117:2 (Dec. 27, 1975), entitled "Same."

2012 NOTE: Pursuant to P.L. 24-288:7 (Oct. 16, 1998), this section would have been repealed "upon the election and swearing into office of the first Public Prosecutor"; however, the election of the public prosecutor never occurred. Accordingly, this section was never removed from the GCA.

§ 30104.1. Special Pay for Prosecutors.

Notwithstanding any other provision of law, attorneys serving as prosecutors shall be entitled to special pay, calculated at the rate of their regular wage plus fifteen percent (15%). The Office of the Attorney General shall provide special pay to all attorneys serving as prosecutors in the Office of the Attorney General.

SOURCE: Added by P.L. 36-107:XII:47 (Sept. 12, 2022).

2024 NOTE: P.L. 36-107:XII:47 (Sept. 12, 2022) stated: "For Fiscal Year 2023, the special pay for prosecutors pursuant to this Section shall be paid utilizing the appropriations to the Office of the Attorney General in the General Appropriations Act of 2023."

§ 30105. Divisions of Office.

There shall be such divisions of the Department of Law as the Attorney General shall determine; provided, however, that the Consumer Counsel shall be an identifiable entity within the Office of the Attorney General.

SOURCE: GC § 7004, as repealed and reenacted by P.L. 13-117:2 (Dec. 27, 1975). Amended by P.L. 17-006:2 (May 5, 1983); P.L. 27-077:5 (Apr. 26, 2004).

§ 30106. Deputy Attorneys General.

(a) The Attorney General shall appoint an attorney as Deputy Attorney General to head each division which has been established by virtue of § 30105 of this Chapter.

(b) The Attorney General may appoint an attorney as Chief Deputy Attorney General, who shall be the officer referred to in 4 GCA § 4102(a)(5) - Unclassified Service; Second-in-Command.

(c) The Chief Deputy Attorney General and each such Deputy Attorneys General as may be appointed shall serve at the pleasure of the Attorney General at a salary to be fixed in accordance with 4 GCA § 6208. If such attorneys are appointed from among the classified employees of the Government, they shall, upon the termination of their appointment as Deputy or Chief Deputy Attorney General, return to the classified positions which said persons held prior to their appointments, or to any other classified position to which they would have been entitled had they not been appointed Chief Deputy or Deputy Attorney General. Upon their return to the classified position, such persons shall retain all accrued benefits and leave, and shall be entitled to advancement in pay range and step to which they would have been entitled had they remained in their former position.

SOURCE: GC § 7005, as repealed and added by P.L. 13-117:2 (Dec. 27, 1975), entitled "Deputies; Transfer of Office of Consumer Counsel"; P.L. 17-006:3 (May 5, 1983).

CROSS-REFERENCES: For the law governing the pay and hiring of all attorneys within the Office, *see* 4 GCA § 6208 and § 6208.1, enacted by P.L. 19-056 (Jan. 31, 1989).

§ 30107. Opinions.

The Attorney General shall give, when requested or required, and without fee, except as provided in § 30102, his opinion in writing to public officers, and written instructions to commissioners or others acting

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for the courts of Guam on all matters relating to service of writs and process. The Attorney General shall also, when requested, give, without fee, his opinion to I Liheslatura, or members thereof, regarding matters relating to enacted laws or the status of case law on a given subject. All legal memoranda or opinions, except those prepared with regard to actual or pending litigation, or which give opinions on matters which, in themselves are not public, shall be public documents. The Attorney General shall give each such legal memorandum or opinion to the Legislative Secretary and the Compiler of Laws for publication as soon as reasonably practicable but no later than seven (7) days subsequent to the date of delivery of such memorandum or opinion to the person or agency requesting such memorandum or opinion, and the Compiler of Laws shall provide such memorandum or opinion to the public for examination and copying if it is not yet published. A document shall not be deemed an opinion or memorandum until such has been signed by the Attorney General or persons authorized by him and delivered to the person or agency requesting such opinion or memorandum. The Attorney General shall be personally responsible for insuring that all opinions and memoranda are delivered to the Legislative Secretary and the Compiler of Laws pursuant to this Section and shall be subject to a fine of One Hundred Dollars ($100.00) for each opinion or memorandum which is not delivered to both the Legislative Secretary and the Compiler of Laws within the time period prescribed by this Section. Government funds shall not be used to pay such fine.

SOURCE: GC § 7002. Repealed and added as § 7006 by P.L. 17-006:1 (May 5, 1983). Amended by P.L. 19-015:1 (Apr. 8, 1988).

NOTES: Public officials desiring legal opinions are directed by 5 GCA § 30107 to the Attorney General.

2024 NOTE: Reference to the "Legislature" replaced with I Liheslatura pursuant to 2 GCA § 1101.

§ 30108. Defense of Judges, Officers and Employees.

(a) Whenever any action for damages is instituted against any officer or employee of the government of Guam in his individual capacity for the performance of an authorized official act, the officer or employee may request the Attorney General to undertake the defense of such action. If the Attorney General finds that the officer or employee acted in good faith, then, subject to the approval of I Maga'håga/Maga'låhi, he shall appear and defend the officer or employee.

(b) Nothing herein shall be interpreted to preclude the participation of the Attorney General in any litigation in order to protect the interests of the government of Guam, nor to prohibit the Attorney General to decline the defense of any of the above officers or employees on the grounds that criminal prosecution or disciplinary action requiring action by the Attorney General may proceed from the acts which are also the subject of the civil action for damages herein referred.

SOURCE: GC § 7003, entitled "Defense of judges"; and GC § 7003.1, entitled "Defense of officers and employees" as added by P.L. 9-175:2 (Mar. 14, 1968). Repealed and added as § 7007 by P.L. 13-117:2 (Dec. 27, 1975).

2024 NOTE: Reference to the "Governor" replaced with I Maga'håga/Maga'låhi pursuant to 5 GCA § 1510.

§ 30109. Duties.

The Attorney General is the public prosecutor and, by himself, a deputy or assistant, shall:

(a) conduct on behalf of the government of Guam the prosecution of all offenses against the laws of Guam which are prosecuted in any of the courts of Guam, the District Court of Guam, and any appeals therefrom;

(b) draw all information, conduct grand jury proceedings, prosecute all recognizances forfeited in the courts and all actions for the recovery of debts, fines, penalties and forfeitures accruing to the government of Guam, except as otherwise provided in this Act;

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(c) conduct on behalf of the government of Guam all civil actions in which the government is an interested party; provided that those branches, departments or agencies which are authorized to employ their own legal counsel may use them instead of the Attorney General;

(d) deliver receipts of money or property received by him in his official capacity and file duplicates thereof with the Director of Administration;

(e) as soon as practical after the receipt of any money in his official capacity, turn the money over to the Director of Revenue and Taxation, and on the first (1st) Monday of each month file with the Director of Administration, an account, verified by his oath, of all monies received by him in his official capacity for the government of Guam during the preceding month;

(f) be diligent in protecting the rights and properties of the government of Guam;

(g) institute by any appropriate action proceedings on behalf of himself or any other public officers (not an employee) to have determined by the courts the validity of any law, rule or regulation of the government of Guam;

(h) prepare and submit annual budgets for approval by I Liheslaturan Guåhan;

(i) administer federal funds/programs on behalf of the Office of the Attorney General;

(j) serve as the Office of the Attorney General's approving authority for the expenditure of funds;

(k) serve as the Office of the Attorney General's appointing authority for all personnel employed at the Office of the Attorney General, hiring employees from an established list of qualified applicants in accordance with established criteria and assigning, detailing, and transferring employees as the Attorney General deems necessary for the effective operation of the Office of the Attorney General; and

(l) perform such other duties as are required by law.

SOURCE: GC § 7008, as repealed and added by P.L. 13-117:2 (Dec. 27, 1975). Subsection (c) amended by P.L. 18-004:5 (Apr. 9, 1985). Subsection (h) repealed and reenacted by P. L. 25-044:4 (June 9, 1999). Amended by P.L. 31-153:2 (Nov. 21, 2011)

2012 NOTE: Pursuant to P.L. 24-288:7 (Oct. 16, 1998), subsection (a) would have been repealed and the remaining subsections amended to remove "any reference to the Attorney General as the Public Prosecutor … upon the election and swearing into office of the first Public Prosecutor"; however such election never occurred. Accordingly, subsection (a) was never removed from the GCA and amendments to the remaining subsections were never codified.

§ 30110. Abating Public Nuisances.

The Attorney General shall bring civil actions to abate public nuisances in Guam.

SOURCE: GC § 7009, as repealed and added by P.L. 13-117:2 (Dec. 27, 1975).

§ 30111. Attorney General Not to Favor Claims.

The Attorney General, except for his own services, may not present any claim, account or demand for allowance against the government of Guam nor in any way advocate the relief asked on any claim or demand made by another except as provided in the Government Claims Act (5 GCA Chapter 6).

SOURCE: GC § 7010, as repealed and added by P.L. 13-117:2 (Dec. 27, 1975).

§ 30112. Not to Defend Persons Accused of Crime.

The Attorney General, during his incumbency, shall not defend or assist in the defense of, or act as counsel in a criminal action for any person or persons, association or corporation indicted of any crime in Guam.

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SOURCE: GC § 7011, as repealed and added by P.L. 13-117:2 (Dec. 27, 1975).

§ 30113. Outside Employment Regulated.

Neither the Attorney General nor any person employed in the Department of Law shall engage in any outside employment which shall conflict with his duties within the Department of Law. Attorneys employed as classified or unclassified attorneys in the Department of Law, or any attorney employed as classified or unclassified attorneys by any government of Guam agency, department or instrumentality, including semi-autonomous or autonomous agencies or branch of the government of Guam shall not engage in the practice of law outside of the Department of Law, or the agency, department, instrumentality or branch of the government of Guam, unless the attorney is exempted from this restriction because the attorney is a member of the U.S. military armed forces or U.S. Coast Guard serving actively, or serving in the reserves, or state or Guam guard; or unless the attorney is exempted from this restriction because the attorney is performing pro bono service, or teaching or training that is approved by the Attorney General or by the head or director of the agency, department, instrumentality or branch of the government of Guam.

SOURCE: GC § 7012, as repealed and added by P.L. 13-117:2 (Dec. 27, 1975). Amended by P.L. 31-077:XII:39 (Sept. 20, 2011) (FY2012 Annual Appropriations Act). Repealed and reenacted by P.L. 32-137:1 (Apr. 17, 2014).

2024 NOTE: Reference to "territorial" replaced with "Guam" pursuant to 1 GCA § 420.

§ 30114. Rules and Regulations.

Notwithstanding any other provision of law, the Attorney General shall make rules and regulations, not inconsistent with law, for the conduct of the Department of Law, but such rules and regulations shall become effective only upon approval of I Liheslaturan Guåhan. Rules and regulations shall not be inconsistent with the personnel rules and regulations of the government of Guam.

SOURCE: GC § 7004. Repealed and reenacted as § 7013 by P.L. 13-117:2 (Dec. 27, 1975); P.L. 24-129:7 (Feb. 16, 1998); P.L. 25-044:5 (June 9, 1999).

NOTE: Public Laws 16-080:1-3 (May 4, 1982) and 16-072:8 (March 5, 1972) amended GC § 7102, § 7103, § 7105 and added § 7106 to the Chapter creating the Territorial Prosecutor. All of these amendments were taken prior to the final decision in *Territorial Prosecutor v. Superior Court*. *See* COMMENT before § 30101. Because these sections dealt with the Territorial Prosecutor, and that office was abolished by operation of law following the decision in the above case, the amendments likewise were repealed by operation of law.

CROSS-REFERENCE: The Commission on Post-mortem Examinations, which has as its main statutory duty law enforcement duties, and of which the Attorney General is a member, is found at 10 GCA Chapter 81.

§ 30115. Authorization for the Department of Law to Pursue Maritime Litigation.

(a) The Department of Law is authorized to pursue litigation before the Federal Maritime Commission, and in any court of competent jurisdiction, to challenge the reasonableness of shipping rates established by the ocean carriers in the Guam trade. This authorization shall continue until such time that the Attorney General determines that the litigation is no longer in the best interest of Guam.

(b) Legislative intent for source of funding in subsection (c) of this section. Section 26 of P.L. 22-041, the General Appropriation Act of 1994, appropriated Nine Million Five Hundred Sixty Thousand Thirty-Eight Dollars ($9,560,038) to the Government of Guam Retirement Fund to pay for the increased contributions to the Retirement Fund for all branches of the government as provided for in the amendment to § 37 of Title 4, Guam Code Annotated, made in Section 8 of P.L. 22-006. I Maga'håga/Maga'låhi has been applying the appropriations within the various departments and agencies to fund this increase, thereby leaving an excess in the appropriation in Section 26 of P.L. 22-041 which can be redirected to use for the maritime litigation.

(c) Reappropriation of Two Million Four Hundred Fifty Thousand Dollars to Department of Law's Ocean Freight Rate Legal Fund for legal fees and expenses in the continuation of the Government of

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Guam's case before the Federal Maritime Commission. Two Million Four Hundred Fifty Thousand Dollars ($2,450,000) are reappropriated from the appropriation of Nine Million Five Hundred Sixty Thousand Thirty-Eight Dollars ($9,560,038) previously made in Section 26 of P.L. 22-041 to the Department of Administration for the payment of increased contributions to the Government of Guam Retirement Fund as mandated by law, to the Ocean Freight Rate Legal Fund, under the Department of Law, for legal fees and expenses in the continuation of the Government of Guam's case before the Federal Maritime Commission challenging current shipping rates in the Guam trade. Funds appropriated to the Ocean Freight Rate Legal Fund may be utilized to accommodate billings for legal fees and expenses incurred in prior fiscal years.

SOURCE: Added by P.L. 22-111:5 (Apr. 11, 1994).

COMMENT: Compare the case of *Government of Guam v. U.S.*, D.C. Civ. Case No. 82-1, Dist. Ct. Guam, which stated with regards to the Legislature's involvement in litigation:

> "It is the further opinion of this Court that two branches of the government of Guam cannot be vested with the authority to institute and prosecute causes of action and take appeals and other legal action for and in the name of the Government. This would, in effect, destroy the Executive Branch of the government of Guam for the Legislature could at any time enact legislation appointing private counsel to institute and prosecute in the name of the Government of Guam to challenge any Executive Branch position or decision."

While this section authorizes the Attorney General, rather than a private counsel, to prosecute this action, such section is similar to the one objected to in the above case.

NOTE: P.L. 22-111:5 added this section designating the second and third paragraphs as subsections (b) and (c) respectively, but without designating the first paragraph as subsection (a). The Compiler believes this was an oversight and therefore references the first paragraph of this section as subsection (a).

2024 NOTE: Reference to the "territory" replaced with "Guam" pursuant to 1 GCA § 420. Reference to the "Governor" replaced with I Maga'håga/Maga'låhi pursuant to 5 GCA § 1510.

§ 30116. Compensation.

The annual salary of the Attorney General shall be:

(a) Two Thousand Dollars ($2,000) higher than the annual salary of the highest compensated Assistant Attorney General under the Attorney Pay Plan of the Office of the Attorney General of Guam, based on years of experience pursuant to Title 4 GCA, Chapter 6, § 6208; or

(b) the annual compensation of a judge of the Superior Court of Guam,

whichever is higher.

SOURCE: Added by P.L. 25-044:6 (June 9, 1999). Amended by P.L. 27-005:IV:11 (Feb. 28, 2003); P.L. 37-125:XIII:II:29 (Sept. 11, 2024).

2025 NOTE: Prior to its amendment by P.L. 37-125:XIII:II:29, this provision stated in its entirety:

> (a) The Attorney General shall be compensated in twenty six (26) equal installments for an annual salary based on ninety percent (90%) of the annual compensation of a judge of the Superior Court of Guam.
>
> (b) From the date of enactment of this Subsection (b) and until the end of Fiscal Year 2003, the Attorney General is authorized to reduce his salary down to eighty percent (80%) of the amount as computed according to Subsection (a) of this Section, for a maximum reduction of twenty percent (20%).

See 2017 NOTE regarding other amendments made to the compensation of the Attorney General without reference to this provision.

2017 NOTE: The compensation of the Attorney General has been amended without reference to5 GCA § 30116. P.L. 32-136:1 (Mar. 5, 2014) stated that the Attorney General's salary was set at the rate in effect on October 1, 2013. P.L. 32-208:1 (Nov. 21, 2014) repealed and reenacted P.L. 32-136:1 and set the Attorney General's salary at the rate pursuant to the Competitive Wage Act of 2014. P.L. 34-009:1 (May 23, 2017) amended P.L. 32-208:1 and provided that "the salary of the Attorney General of Guam shall be set to the salary rate pursuant to the Competitive Wage Act

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of 2014, which was transmitted and received by I Liheslaturan Guåhan on January 15, 2014." None of these public laws repealed 5 GCA § 30116.

§ 30117. Attorney for Mayors' Council.

Notwithstanding any other provision of law, the Attorney General of Guam shall be the legal counsel for the Mayors' Council of Guam. In the event that a conflict of interest exists or workload problems exist, the Attorney General shall, from time to time, appoint an attorney from the private sector to act as the legal counsel for the Mayors' Council. The appointed attorney shall be paid from funds from the budget of the Department of Law.

SOURCE: Added by P.L. 25-003:IV:24 (Mar. 25, 1999). Amended by P.L. 25-185:1 (Jan. 11, 2001). Codified by Compiler.

CROSS-REFERENCE: *See* 5 GCA § 40107 for reference to Mayors' Council staffing.

§ 30118. Budget and Financial Matters.

The Office of the Attorney General shall receive an annual budget pursuant to appropriation by I Liheslaturan Guåhan, which is not subject to the allotment process or the control of the Bureau of Budget and Management Research, nor shall I Maga'hågan/Maga'låhen Guåhan impound or transfer funds appropriated to the Office of the Attorney General. The Office of the Attorney General shall receive from the Department of Administration, or its successor, an amount no less than one twelfth (1/12) of its budget on the first (1st) day of every month of the fiscal year until such budget has been exhausted. In a month in which more than two (2) pay periods occur, the Department of Administration shall release such funds required for the purpose of meeting the operational needs of the Office of the Attorney General for that month, provided a sufficient balance of the appropriation remains.

SOURCE: Added as uncodified law by P.L. 25-044:7 (June 9, 1999) and codified by the Compiler to this section. Amended by P.L. 31-153:3 (Nov. 21, 2011).

§30118.1. Fiscal Authority Accounting; Expenditures.

(a) The Office of the Attorney General shall be responsible for the conduct of operational matters addressing its financial activities, in accordance with and consistent with the provisions contained herein.

(b) The Department of Administration shall establish, for the benefit of the Office of the Attorney General, a fund to be known as the "Office of the Attorney General Operations Fund", hereafter referred to as the "Fund", which shall be maintained by the general administrative services of the Department of Administration separate and apart from other funds of the government of Guam, and independent records and accounts shall be maintained in connection therewith. Financial statements detailing the revenues generated and expenses incurred of the Fund shall be submitted to the Speaker of I Liheslaturan Guåhan quarterly, or as otherwise required by law.

(c) All monies, except for monies required by law to be deposited in a special fund, received by the Office of the Attorney General, from whatever source derived, shall be deposited in the Fund bank account of an eligible bank, as defined in 5GCA § 21112, which is procured by the Department of Administration.

(d) All expenditures from the Fund shall be made by the Department of Administration, at the direction of the Office of the Attorney General.

(e) The Department of Administration shall adopt a uniform system of accounting, consistent with other government of Guam requirements, for the Fund and special funds of the Office of Attorney General.

SOURCE: Added by P.L. 31-153:4 (Nov. 21, 2011).

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§ 30119. Fees.

Every request for a letter from the Office of the Attorney General to provide a statement about the disposition of a person's criminal arrest or criminal case, also known as an "AG Clearance", shall pay to the Office of the Attorney General a non-refundable fee equal to the same fee charged by the Guam Police Department or the Judiciary of Guam for their police clearance or court clearance, whichever is higher. All fees shall be deposited into the "Victim/Witness Travel-Housing Fund" and used accordingly.

SOURCE: Added by P.L. 30-060:2 (Nov. 25, 2009). Amended by P.L. 38-136:XII:80 (Aug. 28, 2026).

2013 NOTE: Subsection designation was deleted to adhere to the Compiler's alpha-numeric scheme in accordance to the authority granted by 1 GCA § 1606.

§ 30120. Fund.

There is hereby established a fund to be known as the "Victim/Witness Travel-Housing Fund", which shall be maintained separate and apart from other funds of the government of Guam, and not subject to any transfer authority of I Maga'hågan/Maga'låhen Guåhan. This Fund shall be used by the Office of the Attorney General for the purpose of assisting with the costs of travel and or housing of victims or witnesses who must return to Guam to testify in criminal trials against criminal offenders, subject to appropriation by I Liheslaturan Guåhan. The Attorney General shall comply with Government of Guam financial reporting requirements.

SOURCE: Added by P.L. 30-060:3 (Nov. 25, 2009).

§ 30121. Administration of General Personnel Matters.

The Office of the Attorney General shall be responsible for the conduct of operational matters addressing its personnel activities, in accordance with and consistent with the provisions contained herein.

SOURCE: Added by P.L. 31-153:5 (Nov. 21, 2011).

§ 30121.1. Administration of Personnel.

The Attorney General of Guam is authorized to hire and appoint such personnel, and to fix their duties and responsibilities under and in accordance with Title 4, Guam Code Annotated, as may be necessary for the purposes of this Chapter.

SOURCE: Added by P.L. 31-153:5 (Nov. 21, 2011).

§ 30121.2. Employment.

(a) Pursuant to the provisions of § 4105 of Title 4, Guam Code Annotated, the Attorney General may establish rules and regulations governing selection, promotion, performance evaluation, demotion, suspension and other disciplinary action for the employees of the Office of the Attorney General. Until such time as the Office of the Attorney General adopts its own rules and regulations as provided herein, the rules and regulations adopted by the Department of Administration shall continue to apply to the Office of the Attorney General.

(b) Employees of the Office of the Attorney General shall continue to be members of the Government of Guam Retirement Fund, subject to the provisions of § 8105 of Title 4, Guam Code Annotated. The Office of the Attorney General shall contribute to the Government of Guam Retirement Fund on the basis of annual billings as determined by I Liheslaturan Guåhan or the Government of Guam Retirement Fund, for the government share of the cost of the retirement benefits applicable to the Office of the Attorney General employees and their beneficiaries. The Office of the Attorney General shall also contribute to the Workmen's Compensation Fund, on the basis of annual billings as determined by the Workmen's Compensation Commissioner, for the benefit payments made from the Workmen's Compensation Fund on account of the Office of the Attorney General's employees.

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(c) Notwithstanding any other provision of law the Office of the Attorney General may provide one (1) way airfare for newly-hired classified, unclassified and/or limited term appointment attorney(s), to Guam and may seek reimbursement from the attorney(s) who do not serve the full term of their contract with the Office of the Attorney General.

SOURCE: Added by P.L. 31-153:5 (Nov. 21, 2011).

ARTICLE 2
LEGAL FEES AND COSTS FOR CERTAIN NON-GENERAL FUND/SPECIAL FUND SUPPORTED ACTIVITIES

SOURCE: Entire Article added by P.L. 30-188:1 (Aug. 28, 2010).

§ 30201. Legislative Findings and Intent.
§ 30202. Legal Fees for Certain Non-General Fund/Special Fund Supported Activities.
§ 30203. Legal Services and Related Costs.
§ 30204. Agency Obligation.
§ 30205. Special Fund Created.

§ 30201. Legislative Findings and Intent.

(a) I Liheslaturan Guåhan finds that the operations of the Attorney General's Office are fiscally supported by the revenues of the General Fund and the various special funds of the government of Guam. As such, the Attorney General is expected to provide legal services to those agencies that also are fiscally supported by the tax-base of the government of Guam. Public law and federal law also place mandates on the Office of the Attorney General that include (1) review of all contracts, including those originating from agencies that are fiscally autonomous from the tax-base of the government of Guam; (2) review of contracts that are funded by federal sources; and (3) most recently, review of all procurement documents where the cost of the procurement is expected to exceed Five Hundred Thousand Dollars ($500,000).

(b) I Liheslatura further finds that such mandates do not constitute a need for the Office of the Attorney General to dedicate an attorney to each autonomous agency or federal program to fulfill the Office's statutory obligations to those agencies and programs but, rather, maintain a pool of staff attorneys to perform such reviews as the need arises. I Liheslatura further finds that the ability to maintain such a pool of qualified attorneys or solicitors is contingent upon the Office of the Attorney General to cover the cost of salaries and overhead for these additional attorneys or solicitors.

(c) I Liheslatura further finds that the private practice of law provides a business model that may be utilized by the Office of the Attorney General to recover the cost of providing statutorily mandated services for agencies and programs that are not supported by the tax-base of the government of Guam. This model includes billable hours for legal services and legal cost billing for definable external expenses, such as postage, copying, notary fees and process service. In recent hearings before I Liheslaturan Guåhan, witnesses have testified that private law firms currently bill their clients from Two Hundred Dollars ($200) to Three Hundred Fifty Dollars ($350) per hour.

(d) It is the intent of I Liheslatura to provide the Office of the Attorney General with the means to recover the cost of providing statutorily mandated services to agencies and programs that are not funded by the General Fund and Special Fund revenues of the government of Guam.

SOURCE: Added by P.L. 30-188:1 (Aug. 28, 2010).

2024 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

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§ 30202. Legal Fees for Certain Non-General Fund/ Special Fund Supported Activities.

The Office of the Attorney General is authorized to bill and recover from agencies, autonomous and semi-autonomous instrumentalities and public corporations of the government of Guam its legal services and related costs (1) for the review of contracts where public law and/or federal law require the review and approval of the Attorney General as to form and legality; and (2) for its legal services and costs involving related administrative hearings or litigation and review of the procedures, documents and instruments relating to the requirements of Title 5 GCA § 5150; provided that for both (1) and (2) the sources of funding for the contract or procurement, or for reimbursing the legal services and costs of the Office of the Attorney General, are not the General Fund or a Special Fund of the government of Guam line agencies. The billable hourly rate of the Office of the Attorney General for recovery of its legal services and costs shall be Two Hundred Dollars ($200.00) per hour.

SOURCE: Added by P.L. 30-188:1 (Aug. 28, 2010).

§ 30203. Legal Services and Related Costs.

The Office of the Attorney General is authorized to bill agencies for the actual costs related to the legal services rendered under the provisions of § 30202 of this Article. Such legal services and costs include, but are not limited to, work conducted by the staff of the Office of the Attorney General, such as an attorney, paralegal, legal secretary and/or investigator, as well as postage, copying and reproduction charges, transcription, notary fees, process service and other actual costs necessary in performing the tasks required by the provisions of § 30202 of this Article.

SOURCE: Added by P.L. 30-188:1 (Aug. 28, 2010).

§ 30204. Agency Obligation.

An agency or autonomous or semi-autonomous instrumentality or public corporation of the government of Guam billed pursuant to this Article by the Attorney General shall make payments within sixty (60) days after receipt of the invoice. The Attorney General and each agency or autonomous or semi-autonomous instrumentality or public corporation of the government of Guam may create a Memorandum of Understanding (MOU) or Memorandum of Agreement (MOA) to govern the relationship created by this Article.

SOURCE: Added by P.L. 30-188:1 (Aug. 28, 2010).

§ 30205. Special Fund Created.

Notwithstanding any law to the contrary, there shall be established a fund called “The Office of the Attorney General Special Fund” (the Fund). The Fund shall be maintained separate and apart from other funds of the government of Guam by the Department of Administration. All funds generated under this Article shall be deposited into the Fund. The Fund shall be used by the Attorney General for the reimbursement or recovery of the costs of its legal services and other related costs, including, but not limited to, funding the employment and assignment of an assistant attorney general and other staff to an agency, autonomous or semi-autonomous instrumentality or public corporation of the government of Guam. The Fund shall not be subject to I Maga’håga/Maga’låhi’s transfer authority, and any lapses in the Fund will carry over into the next fiscal year.

SOURCE: Added by P.L. 30-188:1 (Aug. 28, 2010).

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