



21-147

Recd 1-14-93  
by Peter C. Lujan  
4:05 pm.

*Territory of Guam*  
*Territorio Guam*

OFFICE OF THE GOVERNOR  
UPISINAN I MAGA'LAHI  
AGANA, GUAM 96910 U.S.A.

JAN 14 1993

~~RECEIVED  
OFFICE OF THE SPEAKER  
DATE: 1/14/93  
TIME: 4:30 PM  
RECD BY: [Signature]~~

The Honorable Joe T. San Agustin  
Speaker, Twenty-First Guam Legislature  
155 Hesler Street  
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 102 which I have signed into law this date as  
Public Law 21-147.

Sincerely yours,

*Joseph F. Ada*  
JOSEPH F. ADA  
Governor

211032

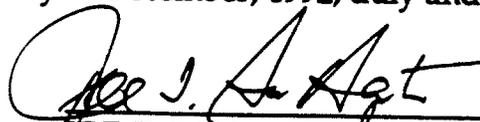
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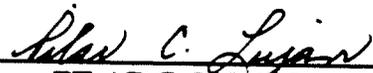
TWENTY-FIRST GUAM LEGISLATURE  
1992 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

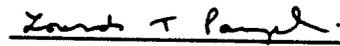
This is to certify that Substitute Bill No. 102(COR), "AN ACT TO ENACT THE FRANK G. LUJAN MEMORIAL COURT REORGANIZATION ACT OF 1992, TO ADD DIVISION I, CHAPTERS 1 THROUGH 10, TO TITLE 7, GUAM CODE ANNOTATED, TO ESTABLISH A SUPREME COURT OF GUAM, TO REORGANIZE THE JUDICIAL BRANCH OF THE GOVERNMENT OF GUAM, AND TO THAT END TO REENACT §§948, 949, 1108 AND 1381 OF THE CODE OF CIVIL PROCEDURE, TO AMEND §963 OF SAID CODE, TO REENACT §135.74 OF TITLE 8, GUAM CODE ANNOTATED, AND TO AMEND §28002.2 OF THE GOVERNMENT CODE TO REQUIRE GOVERNMENT ATTORNEYS TO TAKE THE GUAM BAR EXAMINATION WITHIN TWO YEARS OF EMPLOYMENT," was on the 31st day of December, 1992, duly and regularly passed.

  
JOE T. SAN AGUSTIN  
Speaker

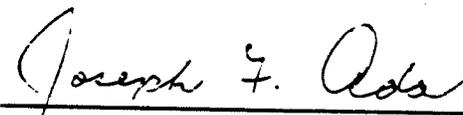
Attested:

  
PILAR C. LUJAN  
Senator and Legislative Secretary

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This Act was received by the Governor this 3<sup>rd</sup> day of January, 1993, at  
10:40 o'clock A. M.

  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
JOSEPH F. ADA  
Governor of Guam

Date: Jan. 14, 1993

Public Law No. 21-147

TWENTY-FIRST GUAM LEGISLATURE  
1991 (FIRST) Regular Session

Bill No. 102 (COR)

As substituted by the Committee  
on Judiciary and Criminal Justice

Introduced by:

P. C. Lujan  
D. Parkinson  
E. P. Arriola  
J. G. Bamba  
A. C. Blaz  
H. D. Dierking  
G. Mailloux  
M. C. Ruth  
J. T. San Agustin  
T. V. C. Tanaka  
D. F. Brooks  
J. P. Aguon  
M. Z. Bordallo  
E. M. Espaldon  
C. T. C. Gutierrez  
M. D. A. Manibusan  
M. J. Reidy  
D. L. G. Shimizu  
F. R. Santos  
A. R. Unpingco

AN ACT TO ENACT THE FRANK G. LUJAN MEMORIAL COURT REORGANIZATION ACT OF 1992, TO ADD DIVISION I, CHAPTERS 1 THROUGH 10, TO TITLE 7, GUAM CODE ANNOTATED, TO ESTABLISH A SUPREME COURT OF GUAM, TO REORGANIZE THE JUDICIAL BRANCH OF THE GOVERNMENT OF GUAM, AND TO THAT END TO REENACT §§948, 949, 1108 AND 1381 OF THE CODE OF CIVIL PROCEDURE, TO AMEND §963 OF SAID CODE, TO REENACT §135.74 OF TITLE 8, GUAM CODE ANNOTATED, AND TO AMEND §28002.2 OF THE GOVERNMENT CODE TO REQUIRE GOVERNMENT ATTORNEYS TO TAKE THE

GUAM BAR EXAMINATION WITHIN TWO YEARS OF EMPLOYMENT.

WHEREAS, the people of Guam in their desire to obtain full self-government also wish their primary governmental institutions to be self-governing; and

WHEREAS, accordingly, Guam has sought since 1974 to establish its own judicial structure responsive to the people of Guam and similar to those of the several States of the Union; and

WHEREAS, Guam has now been authorized by Congress through the Omnibus Territories Act of 1984 to so establish such an independent judicial branch of its government; and

WHEREAS, the Guam legal system is fully developed with experienced judges and sound legal precedent, and the people of Guam have the fundamental democratic right to determine the appropriate procedures for reviewing decisions of the Superior Court of Guam, thereby rendering unnecessary and inappropriate the fifteen-year writ of certiorari review period provided to the Court of Appeals for the Ninth Circuit in §1424-2 of the Omnibus Territories Act of 1984 which interferes with accepted democratic principles; and

WHEREAS, the Guam Commonwealth Act as approved by the people of Guam in support of their exercise of self-government seeks for Guam nondiscriminatory, state-like treatment for its courts and the process by which decisions of the Supreme Court of Guam are reviewed, thereby eliminating any discriminatory review process; now, therefore,

1           **BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:**

2           **Section 1. Title. This Act may be cited as the "Frank G. Lujan**

1 - Memorial Court Reorganization Act of 1992".

2           **Section 2.** Division I, Chapters 1 through 10, is hereby added to Title 7,  
3 Guam Code Annotated, to read:

4   **"DIVISION I**

5   **COURT AND JUDICIAL OFFICERS**

6   **CHAPTER 1**

7   **GENERAL PROVISIONS**

8           **§1101. Name of title.** Title 7 of the Guam Code Annotated shall be  
9 known as 'Judiciary and Civil Procedure', shall consist of those portions of  
10 Title 7 enacted as positive law, together with the remainder of the Guam  
11 Code of Civil Procedure which has not been amended or repealed by either  
12 this Act or by the Rules of Court as authorized by §§66 and 123 of said Code of  
13 Civil Procedure, as amended, prior to adoption of this Act.

14           **§1102. Retroactivity; court for taking appeal.** (a) No part of this Title  
15 is retroactive. No action or proceeding commenced before this Title takes  
16 effect and no right accrued are affected by its provisions, but the procedure  
17 therein must conform to the requirements of this Title as far as applicable.

18           (b) All court proceedings pending in any court of Guam, or in the  
19 Appellate Division of the District Court of Guam, shall continue to final  
20 judgment in such court. Appeals from decisions of the Superior Court of  
21 Guam (including from the Small Claims, Traffic and Family Divisions of the  
22 Superior Court) shall be taken to the Supreme Court of Guam and in the  
23 manner prescribed by the law affecting appeals in effect at the time the  
24 appeal is taken.

25           **§1103. Effective dates.** (a) **Delay.** No provisions of this Act except  
26 §§6112, 6113, 6114 and 6117, shall take effect until May 1, 1993. §§6112, 6113,  
27 6114 and 6117 shall take effect upon enactment of this Act.

1 - (b) **Organization.** For purposes of adoption of rules and the  
2 establishment of a staffing pattern for the Judicial Branch, this Division, and  
3 the remaining portions of Title 7 enacted in this Act shall take effect on May 1,  
4 1993.

5 (c) **Appointment of Justices and Judges.** For the purpose of the  
6 appointment of Justices and Judges, this Division shall go into effect upon  
7 approval by the Legislature of the Rules, as provided in paragraph (d), *infra*.

8 (d) **Adoption of rules of court.** Within thirty (30) days after May 1,  
9 1993, the Presiding Judge of the Superior Court shall appoint a commission  
10 (the "Rules Commission") to draft proposed new rules and procedures to  
11 govern the operation of the Judicial Branch as reorganized by this Act (the  
12 "Rules"). The Rules Commission shall consist of thirteen (13) members, of  
13 whom six (6) shall be the sitting Judges of the Superior Court, four (4) shall be  
14 attorneys admitted to practice in Guam and members of the Guam Bar  
15 Association, and three (3) shall be lay persons who are residents of Guam,  
16 citizens of the United States, and of good reputation. At its first sitting, the  
17 Rules Commission shall elect a chairperson from among its members, and  
18 shall adopt a schedule of public hearings and meetings during which the Rules  
19 shall be considered and recommended for adoption. The Superior Court shall  
20 furnish personnel and other logistic support to the Rules Commission, which,  
21 in addition to the Rules, shall consider and make recommendations on the  
22 staffing pattern of the Judicial Branch as reorganized by this Act. When the  
23 Rules Commission has concluded its studies and has agreed upon the  
24 proposed Rules and staffing pattern, it shall submit the same to the Judicial  
25 Council, which shall in turn submit them to the Legislature, without any  
26 changes therein, although it may make recommendations to the Legislature  
27 thereon. The Rules Commission shall cease to exist thirty (30) days after its

1 - submission to the Judicial Council. The Legislature, without the forty-five-  
2 (45-)day limitation of the Administrative Adjudication Law (the "AAL"), may,  
3 by statute, approve such Rules and staffing pattern or modify them as it  
4 deems fit. After such legislative action on the Rules and staffing pattern, the  
5 Governor shall appoint the Justices and Judges authorized by this Act. Upon  
6 the due appointment and confirmation of such Justices and Judges, the  
7 Justices, sitting *en banc*, shall review the Rules and staffing pattern, and may  
8 approve or modify the same, which Rules and staffing pattern of the  
9 Supreme Court as so adopted by the Justices shall be deemed proposed rules  
10 and regulations adopted by an autonomous agency of the government of  
11 Guam pursuant to the AAL and shall therefore be transmitted to the  
12 Legislature which shall consider them in the manner and under the time  
13 limitations as set out in the AAL.

14 (e) **Hearing appeals.** For purposes of hearing appeals and matters  
15 within the original jurisdiction of the Supreme Court of Guam, this Title shall  
16 take effect upon certification by the Chief Justice to the Governor, to the  
17 Judge of the District Court of Guam, and to the Legislature, that the Supreme  
18 Court of Guam is fully ready to accept the jurisdiction conferred upon it.

19 (f) **Other matters.** Any portions of this Act not dealing with matters  
20 covered by subsections (a), (b), (c), (d) or (e) of this §1103 shall take effect at the  
21 same time as is provided in paragraph (e), *supra*.

22 **§1104. Limitations.** When a limitation or period of time prescribed in  
23 any existing law for acquiring a right or barring a remedy, or for any other  
24 purpose, had begun to run before this Title goes into effect, the time of which  
25 has already run shall be deemed part of the time prescribed for such limitation  
26 by this Title.

27 **§1105. Judicial remedies defined.** 'Judicial remedies' are such as are

1 - administered by the courts of justice or by judicial officers empowered for that  
2 purpose by the Governor of Guam.

3       **§1106. Division of actions.** Actions are of two kinds: civil actions and  
4 criminal actions.

5       **§1107. One form of action.** There is one form of civil action to be called  
6 'civil action'. Civil actions may be divided by Rule of Court into such  
7 categories as are found necessary or convenient for the efficient  
8 administration of justice.

9       **§1108. Same: obligations and injuries.** A civil action arises out of  
10 either an obligation or an injury.

11       **§1109. Obligation defined.** An 'obligation' is a legal duty by which one  
12 person is bound to do a certain thing and arises from a contract or by  
13 operation of law.

14       **§1110. Division of injury.** (a) An injury is either an injury to the person  
15 or to property.

16       (b) An injury to property consists of depriving its owner of the benefit of  
17 it which is done by taking, withholding, deteriorating or destroying it.

18       **§1111. Injuries to the person.** Every other injury is an injury to the  
19 person.

20       **§1112. Criminal action.** Title 9, Crimes and Corrections and Title 8,  
21 Criminal Procedure, both of the Guam Code Annotated, define and provide  
22 for the prosecution of criminal actions.

23       **§1113. Civil and criminal remedies not merged.** When the violation of  
24 a right admits of both civil and criminal remedy, the right to prosecute the one  
25 is not merged in the other.

26       **§1114. Civil actions, by whom prosecuted.** A civil action is prosecuted  
27 by one party against another for the enforcement or protection of a right, or

1 - the redress or prevention of a wrong, except that the Governor or  
2 Legislature may bring an action pursuant to §4104 of this Title in the Supreme  
3 Court of Guam for a determination of the law, as provided in §4104.

4 §1115. Repealer. §§1 through 203, inclusive, of the Code of Civil  
5 Procedure are repealed.

## 6 CHAPTER 2

### 7 COURTS OF JUSTICE

8 §2101. Courts of justice in general. (a) The courts of justice of the  
9 territory of Guam consist of the Supreme Court of Guam and the Superior  
10 Court of Guam. The Supreme Court of Guam may, by rules of court, create  
11 such divisions of the Supreme and Superior Courts as may be desirable, and  
12 may designate which of the divisions of the Superior Court are to be courts of  
13 record and which shall be courts not of record; provided, however, that three  
14 (3) such divisions of the Superior Court shall continue, one being the Traffic  
15 Division, not a court of record, one being the Small Claims Division, not a  
16 court of record, and the third being the Family Division, a court of record.  
17 The Supreme Court of Guam and the Superior Court of Guam, except for the  
18 Traffic and Small Claims Divisions of the Superior Court, are courts of  
19 record.

20 (b) Whenever the term 'courts of Guam' is used elsewhere in this Title,  
21 it shall refer only to courts established by the laws of Guam unless the District  
22 Court of Guam is specifically mentioned in connection therewith.

## 23 CHAPTER 3

### 24 SUPREME COURT OF GUAM

25 §3101. Judicial power. The judicial power of Guam shall be vested in a  
26 Supreme Court and a court of general jurisdiction designated the Superior  
27 Court.

1 - §3102. Status of Supreme Court of Guam. The Supreme Court of  
2 Guam shall be the highest court of Guam.

3 §3103. Supreme Court; Composition. (a) The Supreme Court of  
4 Guam is established pursuant to §22A of the Organic Act of Guam and has  
5 such appellate jurisdiction as is prescribed by the Organic Act of Guam and by  
6 this Title. The Supreme Court shall consist of a full-time Chief Justice  
7 selected as herein provided, two (2) full-time Associate Justices, and up to  
8 four (4) part-time Associate Justices, in such numbers as are determined by the  
9 Judicial Council, in addition to Superior Court Judges as assigned by the  
10 Presiding Judge of the Superior Court upon request of the Chief Justice.  
11 Initially, the Governor shall appoint four (4) part-time Associate Justices. All  
12 such appointments are subject to the advice and consent of the Legislature.

13 (b) In addition, the Governor may appoint any Federal Judge or any  
14 Judge of a court of record in the Commonwealth of the Northern Mariana  
15 Islands, the Republic of Belau, or the Federated States of Micronesia to sit as  
16 an acting Associate Justice. Such appointees shall be referred to as  
17 designated Justices of the Supreme Court of Guam. To be appointed, the  
18 individual shall have practiced law or sat as a judge for a total of at least ten  
19 (10) years, be a graduate of a law school accredited by the American Bar  
20 Association, and, **except** for residency requirements and practice  
21 requirements on Guam, meet all other qualifications for a Justice. An  
22 appointment as a designated Justice shall be for four (4) years, and shall  
23 expire at the end of such period unless the designated Justice is reappointed  
24 by the Governor. All such appointments are subject to the advice and consent  
25 of the Legislature, and a designated Justice may not sit until so confirmed.  
26 The designated Justices shall sit as assigned by the Chief Justice, and while  
27 sitting shall have all the powers of an Associate Justice, and shall be paid the

1 - same as a part-time Justice unless some other arrangement has been made by  
2 the Chief Justice with the court from which the designated Justice comes.  
3 Designated Justices are entitled to a per diem allowance when traveling  
4 away from home on official business for Guam at the rates set for other  
5 Associate Justices of Guam.

6 (c) The term "Justice" as used in this Title refers to all full-time and  
7 part-time Justices of the Supreme Court.

8 (d) The term "en banc" refers to all Justices (both full-time and part-  
9 time) sitting together. If any Justice is unavailable or disqualified, the Chief  
10 Justice shall fill the position with a designated Justice.

11 (e) The term "designated Justice" refers to any Judge of the Superior  
12 Court or other Judge from some other jurisdiction who is qualified by this  
13 Title to sit.

14 (f) In addition to the Supreme Court Justices, a Superior Court Judge  
15 may sit as a designated Justice at the direction of the Presiding Judge of the  
16 Superior Court as requested by the Chief Justice if no conflict exists and the  
17 designated Superior Court Judge did not hear the matter under appeal in the  
18 court below. While so sitting as a designated Justice, the Judge shall have the  
19 same powers as an Associate Justice. A Superior Court Judge so sitting shall  
20 receive no additional compensation.

21 (g) A part-time Justice or a designated Justice may sit as a designated  
22 Judge of the Superior Court at the direction of the Chief Justice as requested  
23 by the Presiding Judge of the Superior Court. While so sitting, the Justice  
24 shall have all the powers of a Judge of the Superior Court.

25 (h) The first Chief Justice shall be selected by the Governor of Guam  
26 from among his confirmed appointees for full-time Justices, to serve as Chief  
27 Justice for a three-(3-) year term. The selection shall be made and shall be

1 - submitted to the Speaker of the Legislature. The first Chief Justice shall  
2 continue to serve as a Justice of the Supreme Court after his or her tenure as  
3 first Chief Justice is complete.

4 (i) Thereafter, the Chief Justice shall be selected from among the full-  
5 time Justices by a majority of all the Justices of the Supreme Court sitting en  
6 banc by secret ballot, to serve a three (3) year term commencing at the end of  
7 the term of the preceding Chief Justice and continuing until 10:00 o'clock AM  
8 on the third Tuesday of January three (3) years hence.

9 (j) No Justice may succeed himself or herself as Chief Justice.

10 (k) When a Chief Justice completes his or her term as Chief Justice, he  
11 or she shall continue to sit as a full-time Justice of the Supreme Court, until  
12 his or her term as Justice expires.

13 (l) In the event of the absence of the Chief Justice, the senior full-time  
14 Associate Justice shall act as Chief Justice. If no full-time Justice is available,  
15 then one (1) of the part-time Associate Justices shall act as Chief Justice, in  
16 order of seniority. If no full-time or part-time Justice is available, then one (1)  
17 of the Superior Court Judges sitting as a designated Justice shall act as Chief  
18 Justice, in order of seniority.

19 (m) In the event of a disqualification, conflict, or recusal of the Chief  
20 Justice in a given matter, the senior full-time Associate Justice shall act as  
21 Chief Justice as to that matter in making assignments of Justices or Judges,  
22 and in other procedural matters. If no full-time Justice is available, then one  
23 (1) of the part-time Associate Justices shall act as Chief Justice in the matter,  
24 in order of seniority. If no full-time or part-time Justice is available, then one  
25 (1) of the Superior Court Judges sitting as a designated Justice shall act as  
26 Chief Justice, in order of seniority.

27 (n) Part-time Justices may practice law or do other work, but may not

1 - work for, nor represent the government of Guam nor any autonomous  
2 agency thereof.

3 (o) In the event that a permanent vacancy occurs in the position of  
4 Chief Justice, the remaining Justices shall elect one (1) of their number to fill  
5 the unexpired term of the previous Chief Justice. In the event that the  
6 remaining term is less than two (2) years, the new Chief Justice may be re-  
7 elected notwithstanding paragraph (j) of this section.

8 **§3104. Internal organization of the Supreme Court.** (a) **Decisions**  
9 **concerning substantive matters.** In hearing and determining the merits of  
10 cases before it, the Supreme Court shall normally sit in a three-(3-) Justice  
11 panel, but, as authorized by the Court's Rules, it may sit *en banc*, and all  
12 members of the panel or the *en banc* court, as the case may be, shall  
13 participate in the decision of each case heard by it.

14 (b) **Decisions Concerning Procedural Matters.** As provided by the  
15 Court's Rules, the Supreme Court or any other court with appellate  
16 jurisdiction may appropriately delegate to a Justice or Judge or to a panel of  
17 the Court the authority to determine procedural matters incident to an  
18 appeal and other matters requiring determination pending decision on the  
19 merits.

20 **§3105. Jurisdiction of Superior Court.** The Superior Court shall have  
21 original jurisdiction over all causes of action, and, except for those causes  
22 exclusively vested in the Supreme Court, may have appellate jurisdiction as  
23 may be provided by the Legislature.

24 **§3106. Compensation.** Until a specific salary is set for the Justices by  
25 another statute, the annual salary of the Chief Justice shall be Three  
26 Thousand Dollars (\$3,000) higher than the annual salary of the Presiding  
27 Judge of the Superior Court, and the annual salary of each of the full-time

1 - Associate Justices shall be Two Thousand Dollars (\$2,000) less than the  
2 annual salary of the Chief Justice.

3 (1) The hourly salary of a part-time Justice shall be the same as  
4 the hourly salary of a full-time Associate Justice; provided, that:

5 (i) The total annual amount of salary may not exceed the  
6 annual salary of a full-time Justice;

7 (ii) No part-time Justice may be paid for more than forty  
8 (40) hours per week; and

9 (iii) No part-time Justice may be paid for more than eight  
10 (8) hours per day.

11 **§3107. Jurisdiction of the Supreme Court. (a) Jurisdiction.** The  
12 Supreme Court shall have authority to review all justiciable controversies  
13 and proceedings, regardless of subject matter or amount involved.

14 (b) **Additional authority.** Its authority also includes jurisdiction of  
15 original proceedings for mandamus, prohibition, injunction, and similar  
16 remedies to protect its appellate jurisdiction and to effectuate its supervisory  
17 authority over the courts below. The Supreme Court shall have jurisdiction  
18 of all appeals arising from judgments, final decrees, or final orders of the  
19 Superior Court in criminal cases and in civil cases and proceedings. The  
20 Supreme Court has appellate jurisdiction over attorney disciplinary matters  
21 and supervisory jurisdiction over all inferior courts in Guam.

22 **§3108. Appealable judgments and orders.**

23 (a) **Final Judgment.** Appellate review to the Supreme Court shall be  
24 available only upon the rendition of final judgment in the Superior Court  
25 from which appeal or application for review is taken.

26 (b) **Interlocutory review.** Orders other than final judgments shall be  
27 available to immediate appellate review as provided by law and in other

1 - cases only at the discretion of the Supreme Court where it determines that  
2 resolution of the questions of law on which the order is based will:

3 (1) Materially advance the termination of the litigation or  
4 clarify further proceedings therein;

5 (2) Protect a party from substantial and irreparable injury;  
6 or

7 (3) Clarify issues of general importance in the  
8 administration of justice.

9 (c) **Concurrence.** (1) **Quorum and determination of a cause.** A  
10 majority of the number of Justices authorized to constitute a panel as  
11 provided by the Rules of the Supreme Court shall constitute a quorum for the  
12 purposes of hearing and deciding an appeal or a matter of original  
13 jurisdiction. A decision shall be determined by a majority vote of a panel. In  
14 the event that a panel is evenly divided on an appeal, the decision appealed  
15 from is sustained.

16 (2) **Actions by Chief Justice alone; writs by individual Justices.** The  
17 Chief Justice alone, or an Associate Justice sitting in his or her place, may  
18 make any appropriate order with respect to an appeal or dismiss an appeal  
19 for want of jurisdiction or failure to take or prosecute an appeal in  
20 accordance with applicable law or rules of procedure. Each of the Justices  
21 shall have the power to issue writs of habeas corpus upon petition by or on  
22 behalf of any person held in actual custody, and may make such writs  
23 returnable before himself or herself or before the Supreme Court or before  
24 the Superior Court or before any Judge thereof on behalf of any person held  
25 in custody.

26 **§3109. Nomination, appointment, eligibility, and tenure of Justices and**  
27 **Judges.** (a) The Governor, with the advice and consent of the Legislature,

1 - shall appoint a qualified person to each of the full-time or part-time positions  
2 of Justice created by this Title, and subject to the advice and consent of the  
3 Legislature, appoint a qualified person to any vacancy occurring in either the  
4 Supreme Court or the Superior Court and to any newly created position of  
5 Justice or Judge authorized by statute. The Judicial Council and the Guam  
6 Bar Association may each submit a list of qualified nominees for the  
7 Governor's consideration. No sitting Judge of the Superior Court shall be  
8 excluded from the pool of nominees for the Supreme Court.

9 (b) The Legislature finds that it is critical that positions on the Supreme  
10 Court be filled promptly. Therefore, if the Governor fails to make any  
11 appointment within ninety (90) days of any vacancy, or within ninety (90) days  
12 of the Legislature's rejection of any previous appointment, the appointment  
13 shall be made by the Speaker of the Legislature of a nominee who would be  
14 qualified for appointment by the Governor.

15 (c) The Chief Justice and each Associate Justice of the Supreme Court,  
16 the Presiding Judge and each other Judge of the Superior Court shall be a  
17 United States citizen, a bona fide resident of Guam for at least five (5) years  
18 and shall have been in the active practice of law in Guam for a period of at  
19 least ten (10) years before said nomination.

20 (d) No full-time Justice or Judge shall, during the term of office, engage  
21 in the private practice of law. No Justice or Judge shall, during the term of  
22 office, run for or hold any other office or position of profit under the United  
23 States, any State, Guam, or other political subdivision of the United States.

24 (e) Active practice of law includes time spent as a Judge or Justice in  
25 Guam.

26 **§3110. Annual Address.** The Chief Justice of the Supreme Court shall  
27 address in person the Legislature in session on the 'State of the Judiciary' at a



1 - unexpired term of his or her predecessor. No person may be elected to  
2 consecutive terms as a Presiding Judge.

3 (b) If the Chief Justice determines that additional Judges are required  
4 for the proper dispatch of business, he or she shall so notify the Governor,  
5 who, if he or she concurs, shall declare the existence of the new position and  
6 shall proceed to appoint a new Judge as in the case of a vacancy; provided,  
7 that no such declaration nor appointment shall take effect until the Legislature  
8 has funded the position and the personnel required to assist the new Judge.

9 (c) If, for any reason, a vacancy is created in the Superior Court and  
10 the Chief Justice determines that the business of the court is such that no new  
11 Judge is required to fill the vacancy, he or she shall so declare, and upon such  
12 declaration, no Judge shall be appointed to fill the vacancy until the Chief  
13 Justice again determines that a need exists and proceeds in the manner  
14 prescribed by subsection (b) of this §4101.

15 (d) All Judges sitting on the effective date of this Chapter shall continue  
16 to sit for the remainder of their respective terms without need for  
17 reappointment, reconfirmation or additional declarations required by this  
18 §4101.

19 **§4102. Appellate jurisdiction and procedure.** The Superior Court shall  
20 have appellate jurisdiction in all cases tried and determined in the:

21 (a) Traffic Division wherein the amount of the fine levied is more than  
22 One Hundred Fifty Dollars (\$150). Such an appeal shall be taken within five  
23 (5) court days after the judgment is rendered by the Traffic Division and shall  
24 be taken by filing a written notice of appeal with the Clerk of the Superior  
25 Court. The appeal shall be a trial on the merits *de novo*;

26 (b) Small Claims Division pursuant to §100 of Chapter III-B of Title I of  
27 the Code of Civil Procedure.

1 - §4103. Powers of the Presiding Judge. The Presiding Judge of the  
2 Superior Court shall prescribe the order of business and assign the cases to  
3 the Judges of the Court in conformance with rules and regulations  
4 promulgated by the Supreme Court. The Presiding Judge may preside at any  
5 session of the Court which he or she attends. During his or her temporary  
6 absence or temporary disability his or her duties shall be performed by the  
7 Judge who is senior in appointment among the other Judges of the Court.

8 §4104. Governor and Legislature may request declaratory  
9 judgments. The Governor, in writing, or the Legislature, by resolution, may  
10 request declaratory judgments from the Supreme Court as to the  
11 interpretation of any law, federal or local, lying within the jurisdiction of the  
12 courts of Guam to decide, and upon any question affecting the powers and  
13 duties of the Governor and the operation of the Executive Branch, or of the  
14 Legislature, respectively. The declaratory judgments may be issued only  
15 where it is a matter of great public interest and the normal processes of law  
16 would cause undue delay. Such declaratory judgments shall not be available  
17 to private parties. The Supreme Court shall, pursuant to its rules of  
18 procedure, permit interested parties to be heard on the questions presented  
19 and shall render its written judgment thereon.

20 §4105. Certifying questions of law. Any judge of the Superior Court of  
21 Guam may certify a question of law to the Supreme Court of Guam for its  
22 opinion as to the interpretation of any law, federal or local, lying within the  
23 jurisdiction of the courts of Guam to decide, and arising in a case or  
24 proceeding then pending before the Superior Court.

## 25 CHAPTER 5

### 26 THE JUDICIAL COUNCIL

27 §5101. Judicial Council. (a) There shall be a Judicial Council (the

1 - "Council") that shall consist of five (5) members: The President of the Guam  
2 Bar Association, the Attorney General of Guam, the Chairman of the  
3 Judiciary and Criminal Justice Committee of the Legislature or its successor  
4 committee, or his or her designee, the Presiding Judge of the Superior Court,  
5 and the Chief Justice of the Supreme Court. The Chief Justice shall be *ex*  
6 *officio* chairperson of the Council.

7 (b) The Council shall operate in a wholly nonpartisan manner.

8 (c) The term of each member of the Council shall be for the term of such  
9 member's respective office.

10 (d) Each member of the Council shall be a resident of Guam and a  
11 citizen of the United States.

12 (e) No act of the Council shall be valid *except* with the concurrence of  
13 no less than three (3) of its members.

14 (f) The Council shall promulgate its own rules.

15 (g) The Council shall be attached to the judicial branch of the  
16 government of Guam for purposes of administration.

17 **§5102. Powers of Council.** The Council shall have the following  
18 powers:

19 (a) To initiate, receive and consider charges concerning alleged  
20 misconduct or incapacity of any Justice or Judge of the courts of Guam;

21 (b) To recommend such policies to the court and to the Legislature as  
22 may be deemed appropriate for the effective and expeditious administration  
23 of the judicial system; and

24 (c) To make other recommendations regarding the administration of  
25 justice to the Supreme Court, to the Governor, or to the Legislature as it  
26 deems proper.

27 **§5103. Selection of Justices or Judges.** Whenever a permanent vacancy

1 - shall occur in the office of the Chief Justice or of an Associate Justice of the  
2 Supreme Court, or whenever a vacancy shall occur in the office of the  
3 Presiding Judge or of a Judge of the Superior Court, the Governor, unless  
4 there has been a declaration made pursuant to §4101(c) of this Title, shall fill  
5 such vacancy by appointing a person possessing the qualifications for such  
6 office. The Council and the Guam Bar Association may each submit to the  
7 Governor a list of qualified nominees for his or her consideration. In  
8 evaluating the nominees, the Governor, the Council, and the Guam Bar  
9 Association shall consider their character, reputation in the community,  
10 experience in the practice of law, and, to the extent that such matters are  
11 discernible, whether the nominees possess 'judicial temperament'.

12       **§5104. Removal of Justices or Judges.** A subcommittee of the Council  
13 shall be formed composed of three (3) members, consisting of the Chairperson  
14 of the Judiciary and Criminal Justice Committee of the Legislature or its  
15 successor committee, or his or her designee, the Attorney General of Guam,  
16 and the President of the Guam Bar Association. The subcommittee shall have  
17 the following powers and duties with respect to the removal of Justices or  
18 Judges of the courts of Guam:

19       (a) It shall initiate, receive and consider charges concerning alleged  
20 misconduct or incapacity of any Chief Justice, Justice, Presiding Judge or  
21 Judge of the courts of Guam;

22       (b) It may subpoena witnesses, administer oaths and take testimony  
23 relating to matters before it;

24       (c) It shall report its findings and make recommendations to the  
25 Supreme Court of Guam for action.

26       **§5105. Procedure for considering removal.** (a) Any charges against  
27 any Justice or Judge must be in writing, signed by the person making the

1 - charge under oath, except that any charge initiated by the subcommittee must  
2 be signed by at least two (2) members of the subcommittee. The subcommittee  
3 shall notify in writing every Justice or Judge against whom a charge is  
4 received and afford the Justice or Judge an opportunity to explain the charge.  
5 The subcommittee shall investigate all charges on a confidential basis, having  
6 available all the powers herein provided, and the proceedings shall not be  
7 public. If a majority of the members of the subcommittee determine that there  
8 is probable cause for belief that a Justice or Judge appears to be so  
9 incapacitated as substantially to prevent the Justice or Judge from performing  
10 judicial duties or has acted in a manner that constitutes willful misconduct in  
11 office, willful and persistent failure to perform judicial duties, habitual  
12 intemperance, or conduct so prejudicial to the administration of justice that  
13 brings the judicial office into disrepute, the subcommittee shall certify its  
14 findings to the Chief Justice of the Supreme Court, or to the most senior  
15 Associate Justice of the Supreme Court if the Chief Justice is the subject of the  
16 charges, within thirty (30) days after such determination.

17 (b) Any Council member or individual, including the individual making  
18 the charge, who divulges information concerning the charge prior to the  
19 certification of the charge by the subcommittee to the Chief Justice of the  
20 Supreme Court, or if the investigation discloses that the certification should  
21 not be issued by the subcommittee, any Council member or individual who  
22 divulges at any time any information concerning the original charge or  
23 divulges the contents or discloses any matter except as permitted by this Title,  
24 shall be guilty of a misdemeanor.

25 (c) In the event that the subcommittee determines that a Judge or  
26 Justice should be removed from office, the Attorney General shall present the  
27 case to the Supreme Court pursuant to the provisions of §5107, *infra*.

1       **§5106. Subcommittee rules.** All the hearings and proceedings by the  
2 subcommittee shall be governed by this Title and by the rules and regulations  
3 adopted by the Subcommittee.

4       **§5107. Determination of judicial disqualification.** (a) The Supreme  
5 Court of Guam shall constitute a special court to receive the recommendation  
6 of the subcommittee and conduct a hearing thereon.

7       (b) Following certification by the subcommittee, the special court may  
8 subpoena witnesses, administer oaths, and take testimony relating to the  
9 charge and may order the production for examination of any books or papers  
10 relative to the charge.

11       (c) The special court shall set a time and place for a hearing, giving  
12 notice to the complainant and the Justice or Judge involved. All parties shall  
13 have an opportunity to:

14               (1) Be heard;

15               (2) Subpoena witnesses and require the production of any books  
16 or papers relating to the proceedings;

17               (3) Be represented by counsel;

18               (4) Have the right of cross examination.

19       All witnesses shall testify under oath and the hearing shall be closed to  
20 the public unless the Justice or Judge complains against requests for an open  
21 hearing. The special court shall not be bound by the rules of evidence but its  
22 findings must be based upon competent and substantial evidence.

23       **§5108. Removal for cause by special court.** If, after conducting its  
24 investigation thereof pursuant to §5107 of this Chapter, two (2) of the three  
25 (3) members of the special court find that a Justice or Judge under charge  
26 should not remain in office, the special court shall remove such Justice or  
27 Judge within thirty (30) days after its findings have been so made. The Justice



1 - candidacy for election to succeed himself or herself. If a declaration is not  
2 filed, the vacancy resulting from the expiration of his or her term of office  
3 shall be filled by appointment pursuant to §3108 of this Title.

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

8 'Shall [Justice] [Judge] \_\_\_\_\_ (here insert  
9 the name of the Justice or Judge) of the [Supreme Court]  
10 [Superior Court] be retained in office? Yes No (Mark  
11 your preference).'

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

18 The form of ballot shall be determined by the Election Commission. The  
19 Election Commission may, in its discretion, combine the judicial ballot with  
20 any other non-partisan ballot or ballots.

21 **§6102. Certification of names upon declarations; Law applicable to**  
22 **elections.** Whenever a declaration of candidacy for election to succeed  
23 himself or herself is filed by any Justice or Judge under the provisions of this  
24 Chapter, the Election Commission shall, not less than thirty (30) days before  
25 the election, certify the name of said Justice or Judge and the judicial ballots  
26 required by this Chapter shall be prepared, printed, published, and  
27 distributed, and the election upon the question of such Justice or Judge

1 - remaining in office shall be conducted and the votes counted, canvassed,  
2 returned, certified and proclaimed by such public officials in such manner as is  
3 now provided by the Election Law.

4       **§6103. Standards of conduct applicable to Justices and Judges.** In  
5 addition to the requirements of §§6104 and 6105 of this Chapter, the  
6 standards of conduct prescribed by the American Bar Association's Canon of  
7 Judicial Ethics shall apply to and govern the conduct of the Justices of the  
8 Supreme Court of Guam and the Judges of the Superior Court of Guam.

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

13       **§6104. Prohibition of political activity.** No Justice or Judge of any court  
14 shall directly or indirectly make any contribution to or hold any office in any  
15 political party or organization, or take part in any political campaign.

16       **§6105. Grounds of disqualification.** (a) Any Judge shall disqualify  
17 himself or herself in any proceeding in which his or her impartiality might  
18 reasonably be questioned, but if, following complete disclosure to all parties  
19 in the proceeding of the reasons for disqualification, all parties agree to  
20 having the Judge continue to sit in the proceedings, he or she need not  
21 disqualify himself or herself.

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

27               (1) Where he or she has a personal bias or prejudice

1 - concerning a party, or personal knowledge of disputed  
2 evidentiary facts concerning the proceeding;

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

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

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

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

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

24 (ii) is acting as a lawyer in the proceeding;

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

27 (iv) is to the Judge's knowledge likely to be a material

1 witness in the proceeding.

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

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

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

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

11 (3) 'Fiduciary' includes such relationships as executor,  
12 administrator, trustee and guardian;

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

16 (i) Ownership in a mutual or common investment fund that  
17 holds securities is not a 'financial interest' in such securities unless  
18 the Judge participates in the management of the fund;

19 (ii) An office in an educational, religious, charitable,  
20 fraternal or civil organization is not a 'financial interest' in  
21 securities held by the organization;

22 (iii) The proprietary interest of a policyholder in a mutual  
23 insurance company or a depository in a mutual savings  
24 association or a similar proprietary interest, is a 'financial  
25 interest' in the organization only if the outcome of the proceeding  
26 could substantially affect the value of the interest;

27 (iv) Ownership of government securities is a 'financial

1 - interest' in the issuer only if the outcome of the proceeding could  
2 substantially affect the value of the securities.

3 (5) 'Judge' means any Justice of the Supreme Court or Judge of the  
4 Superior Court.

5 **§6106. Duty to disclose disqualification.** Whenever a Justice or Judge  
6 shall have knowledge of any fact or facts which, under the provisions of §6105  
7 of this Chapter, disqualify him or her to sit or act as such in any action or  
8 proceeding pending before him or her, it shall be his or her duty to declare the  
9 same in open court and cause a memorandum thereof to be entered in the  
10 minutes. It shall be the duty of the clerk to transmit forthwith a copy of such  
11 memorandum to each party or his or her attorney who shall have appeared in  
12 such action or proceeding, except such parties as are presented in person or  
13 by attorney when the declaration is made.

14 **§6107. Objection to competency; procedure.** Whenever a Justice or  
15 Judge who shall be disqualified under the provisions of this Chapter to sit or  
16 act as such in any action or proceeding pending before him or her neglects or  
17 fails to declare his or her disqualification in the manner provided by this  
18 Chapter, any party to such action or proceeding who has appeared therein  
19 may present to the court and file with the clerk a written statement objecting  
20 to the hearing of such matter or any trial of any issue of fact or law in such  
21 action or proceeding before such Justice or Judge, and setting forth the fact or  
22 facts constituting the ground of the disqualification of such Justice or Judge.  
23 Copies of such written statement shall forthwith be served by the presenting  
24 party on each party, or his or her attorney, who has appeared in the action or  
25 proceeding and on the Justice or Judge alleged in such statement to be  
26 disqualified.

27 Within ten (10) days after the service of such statement as above

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

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

26       If such Judge admits his or her disqualification, or files his or her written  
27 consent that the action or proceeding be tried before another Judge, or fails to

1 - file the answer within the ten (10) days allowed, or if it shall be determined  
2 after the hearing that he or she is disqualified, the action or proceeding shall  
3 be heard and determined by another Judge of the Superior Court who is not  
4 disqualified. Such other Judge shall be assigned in the same manner as the  
5 Judge who was disqualified was assigned to hear the case initially.

6 If such Justice admits his or her disqualification, or files his or her  
7 written consent that the action or proceeding be tried without his or her  
8 participation, or fails to file the answer within the ten (10) days allowed, or if  
9 it shall be determined after hearing that he or she is disqualified, the action or  
10 proceeding shall be heard and determined by the Supreme Court with the  
11 participation of an Associate Justice *pro tempore*, appointed as provided in  
12 §6108 of this Title.

13 **§6108. Judges and Justices pro tempore.** (a) When there is no Judge  
14 qualified or available to hear a cause or action or hearing in the Superior  
15 Court, the Presiding Judge shall request the Chief Justice to appoint a Judge  
16 *pro tempore* to hear the action. Such Judge *pro tempore* shall meet the same  
17 qualifications as a regularly appointed Judge of the Superior Court.

18 When there is no Justice qualified or available to hear a cause or action  
19 or hearing in the Supreme Court, the Chief Justice shall appoint a Justice *pro*  
20 *tempore* to participate in the action or hearing. Such Justice *pro tempore*  
21 shall meet the same qualifications as a regularly appointed Justice of the  
22 Supreme Court.

23 (b) In order to provide for the orderly use of Judges or Justices *pro*  
24 *tempore* such Judge or Justice shall be appointed from among a list  
25 maintained by the Chief Justice of qualified and available persons. To be  
26 qualified for appointment, such person shall be qualified as specified in this  
27 §6108 of this Chapter. Judges or Justices *pro tempore* shall not be confirmed

1 - by the Legislature.

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

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

9 **§6109. Justice sitting in trial court.** In addition to the Judges **pro**  
10 **tempore** provided for in §6108 of this Chapter, the Chief Justice of the  
11 Supreme Court may designate himself or herself or an Associate Justice to sit  
12 as a Judge in the Superior Court of Guam on cases or proceedings in which a  
13 Judge **pro tempore** may be appointed.

14 **§6110. Law practice prohibited.** No full-time Justice, Judge, (except  
15 Judges appointed **pro tempore**), clerk of court, deputy, assistant or other  
16 officer of a court shall practice law in any court of Guam during his or her  
17 continuance in office nor be in partnership with a practicing attorney. This  
18 section shall apply to law clerks of the Supreme Court and of the Superior  
19 Court; **provided**, that such law clerks, if otherwise qualified, may represent  
20 and advise the court or any judicial officer, clerk or marshal, in matters  
21 concerning the official business of the court or officer thereof if no other law  
22 provides for such representation.

23 **§6111. Membership in Retirement Fund.** All Justices and all Judges not  
24 in office on the date of enactment of this Act shall become members of the  
25 Government of Guam Retirement Fund. A Judge holding office at the date of  
26 enactment of this Act shall make the election as required by §6114, *supra*.

27 **§6112. Resignation, or retirement for reasons of age.** Any Judge

1 - holding office at the time of enactment of this Act who resigns after serving at  
2 least twenty (20) years, continuously or otherwise, as a Judge, or after  
3 attaining the age of sixty-five (65) and after serving at least fifteen (15) years,  
4 continuously or otherwise, as a Judge, shall continue during the remainder of  
5 his or her life to receive ninety percent (90%) of the salary he or she received  
6 when he or she relinquished the office, or ninety percent (90%) of the salary of  
7 a sitting Judge on the court from which the Judge has retired, whichever is  
8 higher. For purposes of calculating the number of years of service, a Judge in  
9 office on the date of enactment of this Act shall receive credit of up to a  
10 maximum of five (5) years for each year of service with the government of  
11 Guam not as a Judge.

12       **§6113. Salary on retirement for disability or on failure of**  
13 **reappointment.** (a) Any Judge holding office at the time of enactment of this  
14 Act, who is removed by the Governor upon the sole ground of mental or  
15 physical disability or who fails reappointment, shall be entitled, upon  
16 relinquishing the office, if his or her judicial services aggregated fifteen (15)  
17 years or more, to receive during the remainder of his or her life eighty-five  
18 (85%) of the salary he or she received when he or she relinquished the office.  
19 If his or her judicial service aggregated less than fifteen (15) years but not less  
20 than ten (10) years, he or she shall be entitled to receive, upon relinquishment  
21 of the office, during the remainder of his or her life fifty percent (50%) of the  
22 salary he or she received when he or she relinquished the office.

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

27       **§6114. Membership in Government of Guam Retirement Fund.** (a) Any

1 - Judge holding office at the time of enactment of this Act, may, by written  
2 election filed with the Government of Guam Retirement Fund (the "Fund")  
3 within six (6) months after the enactment of this section, bring himself within  
4 the purview of the Fund. No Judge not in office on the date of enactment of  
5 this Act or Justice may participate in any other Government of Guam  
6 retirement program.

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

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

26 (d) If any Judge or Justice is a member of the Fund at the time he or she  
27 takes office as a Judge or Justice, his or her judicial employment shall be

1 - deemed a continuation of his or her former employment and all such past  
2 service shall be counted towards his or her retirement date and retirement  
3 annuity.

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

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

13 **§6115. Assignment of retired Judge or Justice to active duty.** (a) Any  
14 retired Judge or Justice may be designated and assigned by the Chief Justice to  
15 perform without additional compensation such judicial duties in any court of  
16 Guam as he or she is willing to undertake.

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

19 (c) All designations and assignments of Judges or Justices shall be filed  
20 with the clerk and entered on the minutes of the court from and to which  
21 made.

22 **§6116. Powers upon designation and assignment.** (a) A Judge or  
23 Justice shall discharge, during the period of his or her designation and  
24 assignment, all judicial duties for which he or she is designated and assigned.  
25 He or she may be required to perform any duty which might be required of the  
26 court to which he or she is designated and assigned.

27 (b) Such Judge or Justice shall have all the powers of a Judge of the

1 - court to which he or she is designated and assigned, except the power to  
2 appoint any person to any position or to designate permanently a depository  
3 of funds or a newspaper for publication of legal notices.

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

10 §6117. Election of retirement system. Notwithstanding any other  
11 provision of law to the contrary, any Judge holding office at the date of  
12 enactment of this Act shall be permitted upon retirement from active duty to  
13 elect whether he or she wishes to be covered by §6114 of this Chapter if  
14 otherwise qualified; or whether he or she desires to avail himself or herself of  
15 the annuities under the Fund if he or she is a member of the Fund.

## 16 CHAPTER 7

### 17 POWERS OF JUDGES, JUSTICES

### 18 AND OF THE SUPERIOR COURT

19 §7101. Powers of a single Judge. Except as otherwise provided by law  
20 the judicial power of the Superior Court with respect to any action or  
21 proceeding may be exercised by a single Judge, who may preside alone and  
22 hold a regular or special session of the court at the same time as other  
23 sessions held by other Judges.

24 §7102. Sessions of the Superior Court. The Superior Court shall  
25 always be open on court days. It shall hold its regular sessions in Agaña at  
26 times determined by the rules of the court. Special sessions may be held at  
27 such places as the nature of the business may require and upon such notices as

1 - the court orders, pursuant to rules prescribed by the Supreme Court.

2       **§7103. Court Administrator.** The Presiding Judge shall appoint a  
3 Court Administrator who shall be subject to removal by him or her. The  
4 Court Administrator shall be responsible for the general supervision of all  
5 personnel of the Superior Court other than Judges and their immediate staff,  
6 the buildings and grounds assigned to the Superior Court, property in the  
7 custody of the court used for the court's operation, and shall be responsible  
8 for other matters assigned to him or her by the Presiding Judge. The salary of  
9 the Court Administrator shall be fixed by the Supreme Court pursuant to a  
10 general Personnel Rule covering compensation. The Court Administrator  
11 may appoint, with the approval of the Presiding Judge, necessary deputies  
12 and assistants in such number as may be approved by the Supreme Court,  
13 whose salaries shall be fixed by the Supreme Court pursuant to a general  
14 Personnel Rule covering compensation. The appointment, removal and  
15 salaries of such deputies and assistants shall be governed by the applicable  
16 Personnel Rules and Regulations governing employment practices within the  
17 Judicial Branch.

18       **§7104. (a) Superior Court Clerk.** The Presiding Judge shall appoint a  
19 Superior Court Clerk who shall be subject to removal by him or her. The  
20 Superior Court Clerk may appoint, with the approval of the Presiding Judge,  
21 such deputies and assistants in such numbers as are necessary for the daily  
22 operations of the Superior Court. Such deputies and assistants shall be  
23 subject to removal by the Superior Court Clerk, with the approval of the  
24 Presiding Judge. The salaries of the Superior Court Clerk and his or her  
25 deputies and assistants shall be fixed by the Supreme Court pursuant to a  
26 general Personnel Rule covering compensation. The appointment and  
27 removal of such deputies and assistants shall be subject to the applicable

1 - Personnel Rules and Regulations governing employment practices within the  
2 Judicial Branch.

3       **(b) Supreme Court Clerk.** The Chief Justice shall appoint a Supreme  
4 Court Clerk who shall be subject to removal by him or her. The Supreme  
5 Court Clerk may appoint, with the approval of the Chief Justice, such  
6 deputies and assistants in such numbers as are necessary for the daily  
7 operations of the Supreme Court. Such deputies and assistants shall be  
8 subject to removal by the Supreme Court Clerk, with the approval of the  
9 Chief Justice. The salaries of the Supreme Court Clerk and his or her  
10 deputies and assistants shall be fixed by the Supreme Court pursuant to a  
11 general Personnel Rule covering compensation. The appointment and  
12 removal of such deputies and assistants shall be subject to the applicable  
13 Personnel Rules and Regulations governing employment practices within the  
14 Judicial Branch.

15       **§7105. Proceedings and records public.** The sessions of every court  
16 shall be open to the public, except as otherwise provided by law. The records  
17 of every court of justice, except the Family Court when sitting under the  
18 Juvenile Court Law (9 GCA Ch. 5), shall be public records and shall be open to  
19 the inspection of any resident under the supervision of the clerk of the court  
20 during business hours, unless restricted by special order of the court, or of any  
21 party in interest.

22       **§7106. Civil liability of a Judge or Justice.** No Judge or Justice shall be  
23 liable in a civil action for damages by reason of any judicial action or  
24 judgment rendered by him or her.

25       **§7107. Incidental powers and duties of courts.** Each of the courts of  
26 Guam shall have power:

27       (a) To preserve and enforce order in its immediate presence;

1 (b) To enforce order in the proceedings before it, or before all persons  
2 empowered to conduct a judicial investigation under its authority;

3 (c) To provide for the orderly conduct of proceedings before it or its  
4 officers;

5 (d) To compel obedience to its judgments, orders and process, and to  
6 the orders of a Judge out of court in an action or proceeding pending therein;

7 (e) To control in furtherance of justice, the conduct of its ministerial  
8 officers and of all other persons in any manner connected with a judicial  
9 proceeding before it in every matter appertaining thereto;

10 (f) To compel the attendance of persons to testify in an action or  
11 proceeding pending therein in the cases and manner provided in this Title and  
12 in Titles 8 and 9 of this Code (Family Court Law);

13 (g) To administer oaths in actions or proceedings pending therein, and  
14 in all other cases where it may be necessary in the exercise of its powers and  
15 duties; and

16 (h) To amend and control its process and orders so as to make them  
17 conformable to law and justice.

18 **§7108. Adjournment in absence of Judge.** If no Judge attends on any  
19 day appointed for a session of any court, or on the day to which it may have  
20 adjourned, before noon, the clerk may adjourn the court until the next day  
21 and so on from day to day, until the Judge attends or by written order directs  
22 the court to be adjourned to a day certain fixed in the order, in which case the  
23 clerk shall so adjourn it. In case the Judge is absent for more than ten (10)  
24 days or is disabled or disqualified from acting the clerk shall forthwith notify  
25 the Chief Justice, or Presiding Judge, or next senior Judge, as appropriate.

26 **§7109. Seals of court.** Both the Supreme and Superior Courts shall  
27 have seals designed pursuant to the provisions of Title 1 of this Code, which

1 - shall be kept by their clerks. The seal of the court need be affixed only to writs  
2 and process, to certificates of probate of a will or the appointment of an  
3 executor, administrator or guardian and to the authentication of a copy of a  
4 record or other proceeding of the court or of an officer thereof, or of a copy of  
5 a document on file in the office of the clerk.

6       **§7110.** A Judge of the Superior Court may hear matters in chambers as  
7 permitted by law or the rules of court.

8       **§7111. Powers of judicial officers relative to the conduct of**  
9 **proceedings.** Every judicial officer shall have the power:

10       (a) To preserve and enforce order in his or her immediate presence and  
11 in proceedings before him or her, when he or she is engaged in the  
12 performance of official duty;

13       (b) To compel obedience to his or her lawful orders as provided in this  
14 Title;       (c) To compel the attendance of persons to testify in a proceeding  
15 before him or her, in the case and manner provided in this Title; and

16       (d) To administer oaths to persons in a proceeding pending before him  
17 or her and in all other cases where it may be necessary in the exercise of his or  
18 her powers and duties.

19       **§7112. Power to punish for contempt.** For the effectual exercise of the  
20 powers conferred by §7111, a judicial officer may punish for contempt in the  
21 cases provided in this Title.

22       **§7113. Power to administer oaths and take acknowledgments.** Every  
23 judicial officer and every clerk of court and his or her deputies shall have  
24 power to administer oaths and to take acknowledgments of deeds and other  
25 written instruments.

26       **§7114. Proceedings, when not affected.** No proceeding in any court of  
27 justice, in an action pending therein, shall be affected by a vacancy in the

1 - office of all or any of the Judges thereof.

2       **§7115. Proceedings to be in the English language.** Every written  
3 proceeding in a court of justice of Guam shall be in the English language and  
4 judicial proceedings shall be conducted, preserved and published in no other;  
5 provided, however, that with the consent of all parties, counsel and the court,  
6 proceedings may be conducted in the Chamorro language.

7       **§7116. Abbreviations and figures.** Such abbreviations as are in  
8 common use may be used, and numbers may be expressed by figures or  
9 numerals in the customary manner.

10       **§7117. Means to carry jurisdiction into effect.** When jurisdiction is by  
11 law conferred on a court or judicial officer, all the means necessary to carry it  
12 into effect are also given; and in the exercise of this jurisdiction, if the course  
13 of the proceeding be not specifically pointed out by law or by rules of  
14 procedure adopted by the Supreme Court, any suitable process or mode of  
15 proceedings may be adopted which may appear most conformable to the  
16 spirit of this Title.

17       **§7118. Disposal of money deposited with the court.** When any money  
18 is deposited with the clerk of any court pursuant to any action or proceeding  
19 in such court, or pursuant to any order, decree or judgment of the court, and  
20 to which the government of Guam is to have title, or when any money is to be  
21 paid to the Treasurer of Guam pursuant to any provision of this Title, such  
22 money shall be forthwith deposited with such Treasurer and the duplicate  
23 receipt of the Treasurer thereof shall be filed with the Director of  
24 Administration and evidence of such duplicate receipt that has been so filed  
25 shall be necessary before the clerk or party required to deposit such money  
26 shall be entitled to a discharge of the obligation imposed upon him or her to  
27 make such deposit. When any money so deposited is to be withdrawn or paid

1 out, the order directing such payment or withdrawal shall require the  
2 Director of Administration to draw his or her warrant therefor and the  
3 Treasurer to pay the same, subject to the approval of the Governor of Guam  
4 of such warrant.

5 Whenever any funds are deposited with the clerk of a court pursuant to  
6 any action or proceeding in such court, or pursuant to any order, decree or  
7 judgment of such court, and the title to the money does not rest in the  
8 government of Guam, the procedure set forth in §§672, 673 and 674 of the  
9 Code of Civil Procedure shall be followed.

10 This section shall not be deemed to repeal or affect in any way §28510 of  
11 the Government Code of Guam dealing with fees payable to the Territorial  
12 Law Library, nor with any other law which specifically allocates fees to any  
13 other source.

14 §7119. Referees. Courts of record may appoint referees as provided in  
15 this Title, the Probate Code, Title 9 (Family Court Law) and the applicable  
16 rules of procedure, and such referees are judicial officers pursuant to this  
17 Chapter.

## 18 CHAPTER 8

### 19 MINISTERIAL OFFICERS OF THE COURT

20 §8101. Clerks of court, duties generally. (a) Superior Court clerk. The  
21 clerk of the Superior Court shall perform duties required of him or her by law  
22 as the clerk of that court and of the Small Claims and Traffic Divisions of the  
23 Superior Court. He or she shall:

24 (i) Take charge of and safely keep, or dispose of according to law  
25 all books, papers and records which may be filed and deposited in this  
26 office;

27 (ii) Supervise and direct the work of his or her deputies and

1 - assistants;

2 (iii) Attend in person or by deputy each session of the Superior  
3 Court, Small Claims Division and the Traffic Division;

4 (iv) Issue all process and notices required to be issued, enter a  
5 synopsis of all orders, judgments and decrees proper to be entered at  
6 length, keep in the Superior Court a docket in which must be entered the  
7 title of each cause, with the date of its commencement, and enter a  
8 memorandum of every subsequent proceedings therein with the date  
9 thereof and a record of all the fees charged; and

10 (v) Keep such other indices and records and make such reports as  
11 may be necessary in the performance of the duties of his or her office  
12 and as may be required by law.

13 (b) **Supreme Court clerk.** The clerk of the Supreme Court shall  
14 perform duties required of him or her by law as the clerk of that court. In  
15 addition, he or she shall:

16 (i) Take charge of and safely keep, or dispose of according to law  
17 all books, papers and records which may be filed and deposited in this  
18 office;

19 (ii) Supervise and direct the work of his or her deputies and  
20 assistants;

21 (iii) Attend in person or by deputy each session of the Supreme  
22 Court;

23 (iv) Issue all process and notices required to be issued, enter a  
24 synopsis of all orders, judgments, decisions, and decrees proper to be  
25 entered at length, keep in the Supreme Court a docket in which must be  
26 entered the title of each appeal, with the date of its commencement, and  
27 enter a memorandum of every subsequent proceedings therein with the

1 - date thereof and a record of all the fees charged; and

2 (v) Keep such other indices and records and make such reports as  
3 may be necessary in the performance of the duties of his or her office  
4 and as may be required by law or by the Chief Justice.

5 **§8102. Official reporters; appointment, qualifications.** The Presiding  
6 Judge for the Superior Court and the Chief Justice for the Supreme Court  
7 may appoint official reporters for their respective courts, or may share  
8 reporters, as the need is made known, in such number as the Presiding Judge  
9 or the Chief Justice, respectively, may designate who shall be subject to  
10 removal by the Presiding Judge or the Chief Justice as provided in the  
11 Personnel Rules of the Supreme Court. The qualifications of the reporters  
12 shall be determined by standards formulated by the Supreme Court..

13 **§8103. Official reporters; duties.** Each reporter shall, whenever  
14 requested by a party to any action or proceeding, or directed by the court,  
15 attend the sessions of the court and record verbatim by shorthand, by  
16 mechanical means, or by electronic means, or any combination thereof, all the  
17 proceedings had in open court in the action or proceeding. The reporter shall  
18 attach his or her official certificate to the original shorthand notes or other  
19 original records so taken, or to the tapes involved if taken electronically, and  
20 promptly file them with the clerk upon the request of a party to any such  
21 action or proceeding who has agreed to pay the fee therefor, or of a Judge of  
22 the court. The reporter, or if the original has been transcribed by electronic  
23 means, then such person as has been designated for the purpose, shall  
24 promptly transcribe the original records of the requested part of the  
25 proceedings and attach to the transcript his or her official certificate and  
26 deliver the same to the party or Judge making the request and a copy, certified  
27 by him or her, to the clerk for the records of the court. The transcript in any

1 - case certified by the reporter shall be deemed *prima facie* a correct statement  
2 of the testimony taken and proceedings had.

3       **§8104. Official reporters; compensation and fee.** Each reporter shall  
4 receive a salary to be fixed by the Supreme Court and may charge and collect  
5 fees, at rates fixed by the Supreme Court, for transcripts requested by the  
6 parties, but not for the certified copy filed with the clerk for the records of the  
7 court. Each reporter shall make such reports as the Supreme Court may  
8 require as to the transcripts prepared and fees charged by him or her.

9       **§8105. Marshal of the court; appointment, salary.** The Supreme  
10 Court and Superior Court may each appoint a marshal of the court who shall  
11 be subject to removal by the court. The Supreme Court shall utilize the  
12 Superior Court marshal and deputies until such time as the business of the  
13 Supreme Court or its physical location warrants a separate marshal and  
14 deputies for that court. The marshal shall receive a salary to be fixed by the  
15 General Rule on compensation. The marshal, with the approval of the court,  
16 may appoint deputies whose salaries shall be fixed by the General Rule on  
17 compensation.

18       **§8106. Marshal; duties.** The marshal or his or her deputies shall attend  
19 all the sessions of the Supreme and Superior Courts, unless excused by a  
20 Judge or Justice at whose session the marshal or a deputy should otherwise  
21 attend, and preserve order thereat. He or she shall serve and execute  
22 process, writs and orders issued under the laws of Guam by a court of record  
23 when so directed by the court and for this purpose shall have all the powers  
24 conferred by law on the Police Chief of the Guam Police Department and on  
25 the Mayors of municipal districts. He or she shall perform such other duties  
26 as may be directed by the Superior Court, by the Supreme Court, or by the  
27 rules and procedures adopted by the Supreme Court.

1       **§8107. Marshal; appointment of special deputies.** The Superior Court  
2 and the Supreme Court may appoint employees of the Department of Law  
3 and of the Department of Revenue and Taxation of the government of Guam  
4 as special deputy marshals of the Superior Court Marshal. Such  
5 appointments shall be for a term of one (1) year unless sooner revoked by the  
6 Superior Court, or for as long as such employees remain in their employment  
7 with their respective departments, whichever is earlier.

8       **§8108. Special deputy marshal; duties, compensation.** The employees  
9 of the Department of Law who are appointed as deputies under §8107 of this  
10 Chapter shall exercise their office only in cases wherein the government of  
11 Guam is a party. The employees of the Department of Revenue and Taxation  
12 who are appointed as deputies under said §8107 shall exercise their office  
13 only in matters concerning the income tax laws and other tax and revenue  
14 laws of Guam. No deputies under said §8107 shall be entitled to  
15 compensation in addition to the compensation they are receiving as  
16 employees of the government of Guam.

17       Deputy Marshals who are appointed as full-time deputies of the  
18 Superior Court or the Supreme Court may exercise the full power of a  
19 marshal of the Superior Court or the Supreme Court in all matters of the  
20 Superior or Supreme Court, and shall be compensated by a salary fixed by a  
21 the General Rule on compensation.

22       **§8109. Probation officer; appointment, salary.** The Superior Court  
23 may appoint a probation officer and necessary assistants who shall be subject  
24 to removal by the court. The salaries of the probation officer and his or her  
25 assistants shall be fixed by the General Rule on compensation. Appointment  
26 and removal of assistant probation officers shall be subject to any applicable  
27 Personnel Rules and Regulations.

1        **§8110. Probation officers; duties.** The probation officer shall furnish to  
2 each probationer under his or her supervision a written statement of the  
3 conditions of probation and shall instruct him or her regarding the same. He  
4 or she shall keep informed concerning the conduct and condition of each  
5 probationer under his or her supervision and shall report thereof to the  
6 court. He or she shall use all suitable means not inconsistent with the  
7 conditions imposed by the court to aid probationers and to bring about  
8 improvement in their conduct and condition. He or she shall keep records of  
9 his or her work. He or she shall make pre-sentence investigations when  
10 directed by the court, and shall perform such other duties as the Superior  
11 Court may direct. The probation officer and his or her assistants shall each,  
12 in the course of carrying out their duties, have the powers of peace officers  
13 under the laws of Guam.

14        **§8111. Bonds of Clerks.** (a) Each clerk of the Supreme and Superior  
15 Courts, before entering on the duties of his or her office, shall give a bond in  
16 the sum of Ten Thousand Dollars (\$10,000), or such greater sum as the  
17 Supreme Court may determine, for the faithful performance of duty by  
18 himself or herself, his or her deputies and assistant clerks during his or her  
19 continuance in office and by his or her deputies and assistant clerks after his  
20 or her death until his or her successor is appointed and qualified. The bond  
21 shall be approved by the Supreme Court and filed and recorded in the office  
22 of the clerk of the Supreme Court.

23        (b) Any person injured by a breach of such bond may sue thereon, in his  
24 or her own name, to recover his or her damages. Such action shall be  
25 commenced within six (6) years after the right accrues, but a person under  
26 legal disability may sue within three (3) years after the removal of his or her  
27 disability. After judgment such bond shall remain as security until the whole

1 - penalty has been paid.

2 (c) Such bond shall be a corporate surety bond, and the premium  
3 therefor shall be paid out of appropriations for the judicial branch of the  
4 government of Guam.

5 §8112. **Bond of Marshal.** (a) The Marshal of the Superior Court, and  
6 of the Supreme Court, before entering on the duties of his or her office, shall  
7 give a bond in the sum of Ten Thousand Dollars (\$10,000) or such greater sum  
8 as the Supreme Court may determine for the faithful performance of duty by  
9 himself or herself and his or her deputies during his or her continuance in  
10 office and by his or her deputies after his or her death until his or her  
11 successor is appointed and qualifies. The bond shall be approved by the  
12 Supreme Court and filed and recorded in the office of the clerk of the  
13 Supreme Court.

14 (b) Such bond shall be a corporate surety bond, and the premium  
15 therefor shall be paid out of appropriations for the judicial branch of the  
16 government of Guam.

17 §8113. **Other court personnel.** The Presiding Judge for the Superior  
18 Court, and the Chief Justice for the Supreme Court, may appoint and may  
19 remove from their respective courts, pursuant to all applicable Personnel  
20 Rules and Regulations of the Supreme Court, such other officers and  
21 personnel as are necessary to carry out the duties of the court. If such officers  
22 and personnel are appointed to fill new positions or to have duties not  
23 already specified in law or in a plan approved by the Supreme Court, no such  
24 appointments shall be made or new duties assigned until a plan therefor has  
25 been approved by the Supreme Court.

26 **CHAPTER 9**  
27 **ATTORNEYS**

1 -       **§9101. Regulations of attorneys.** The Supreme Court shall have the  
2 power to govern attorney and judicial ethics, admission to, expulsion from  
3 and governance of a Guam bar association; and shall promulgate rules to  
4 effectuate that power.

5       **§9102. Integrated Bar Association.** The Supreme Court may continue,  
6 by rule, the requirement, contained in Government Code §28009, that no  
7 person is authorized to practice law in Guam unless he or she be a member in  
8 good standing of an integrated bar association. If such requirement is  
9 continued, then the Bar of Guam is a public body corporate, the membership  
10 of which consists of persons who are now or hereafter licensed to practice  
11 law on Guam.

12       **§9103. Acts repealed.** Chapters 1 and 1.5 of Title XXIX of the  
13 Government Code are repealed.

14       **§9104. Transition provisions.** §9103 of this Chapter shall not take  
15 effect until the rules of the Supreme Court authorized in §§9101 and 9102 of  
16 this Chapter have been promulgated. Upon promulgation of the rules  
17 described herein, the powers of the Supreme Court over the attorneys and  
18 Bar of Guam shall become effective.

19       **§9105. Fees and solicitation.** (a) The measure of compensation of  
20 persons authorized to practice law is left to the express or implied agreement  
21 of the parties, subject to the regulation of the Supreme Court.

22       (b) Any agreement for such compensation or for reimbursement of any  
23 expenses incident to the prosecution or defense of any claim by any party is  
24 wholly void if such professional employment was solicited by the person  
25 authorized to practice law or by any other person acting on his or her behalf  
26 or at his or her request, unless the services of such person authorized to  
27 practice law on Guam are first requested by such party. 'Solicitation' shall be

1 - defined in the same manner as it is defined in the ethical rules applicable to  
2 persons authorized to practice law on Guam.

3       **§9106. Law enforcement officers; assistance.** It is the duty of all Guam  
4 law enforcement agencies to aid the Supreme Court and its delegated agents  
5 in any investigation of the conduct of persons authorized to practice law in  
6 Guam, of the character and fitness of persons who apply for admission to  
7 practice law in Guam or reinstatement to the practice of law in Guam, or of  
8 persons accused of the unauthorized practice of law in Guam, and to furnish  
9 all available information about such individuals.

10       **§9107. Immunity from liability for official action.** Justices of the  
11 Supreme Court and those acting pursuant to orders or rules of court as their  
12 employees or agents shall not be held liable for any action performed in the  
13 course of their official duties undertaken pursuant to this Chapter."

14       **Section 3. Reenactment of prior laws.** The following sections of the  
15 Code of Civil Procedure as found in Public Law 12-85 (Court Reorganization  
16 Act of 1974) are hereby re-enacted:

17       §948 (Lower courts to give effect to orders of Supreme Court);

18       §949 (Remedial powers of the Supreme Court);

19       §1108 (Writs of review, mandate and prohibition);

20       §1381 (Appeal to the Supreme Court Insolvency Matters).

21       **Section 4. Amendment.** §963 of the Code of Civil Procedure is  
22 amended to read:

23       "§963. When an appeal taken. An appeal to the Supreme  
24 Court may be taken from the Superior Court in any case in which  
25 the Supreme Court has jurisdiction as set forth in this Code."

26       **Section 5.** The words 'District Court of Guam', 'District Court' or  
27 'Appellate Division of the District Court' found in §3433 (Appealable orders in

1 - probate actions), and §4801 (Appealable orders in guardianship proceedings),  
2 both in Title 15, Guam Code Annotated, §12121 (Appeals from judgments in  
3 elections), Title 3, Guam Code Annotated, and §5125 (Appeals in juvenile  
4 matters), Title 19, Guam Code Annotated are amended in each case to read  
5 'Supreme Court of Guam'.

6       **Section 6. Habeas corpus appeals.** §135.74 (Appeals by Attorney  
7 General), Title 8, Guam Code Annotated, is reenacted.

8       **Section 7. General references.** Every other reference in law, rule or  
9 regulation, to the 'District Court', 'District Court of Guam' or the 'Appellate  
10 Division of the District Court of Guam', when such terms refer to the  
11 appellate functions of the District Court of Guam, shall be read as and mean  
12 the Supreme Court of Guam.

13       **Section 8.** § 28002.2 of the Government Code is amended to read:

14       "§28002.2. **Government attorneys.** Any person who is a  
15 member of the bar of the highest court of any state or territory of  
16 the United States or of the District of Columbia, while  
17 representing the United States of America, the government of  
18 Guam, or any agency, instrumentality, officer or employee  
19 thereof, in the course of his or her official duties, may practice  
20 before the courts of Guam without being admitted to practice  
21 pursuant to either §§28002 or 28002.1; provided, however, that the  
22 authority to practice without admission to the Bar of Guam shall  
23 lapse as to any person who has not taken the Guam Bar  
24 Examination within two (2) years from the commencement of his  
25 or her employment with the government or who has not been  
26 admitted to the Bar of Guam within three (3) years of the  
27 commencement of his or her employment with the government.

1 - The two-(2-) and three-(3-) year periods specified in this section  
2 shall run from the effective date of this section for persons in the  
3 employ of the government on such effective date."

4 **Section 9. Severability.** If any section, subsection, or clause of this Act  
5 shall be held to be invalid or unconstitutional, such decision shall not affect  
6 the validity of the remaining portions of this Act.