CHAPTER 2
LIEUTENANT GOVERNOR

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§ 2100. Lieutenant Governor as Acting Governor.

The Lieutenant Governor shall serve as Acting Governor of Guam as provided in the Organic Act of Guam.

SOURCE: GC § 5600 added by P.L. 13-149:V:1.

§ 2101. Creation of the Guam State Clearinghouse.

There is within the Office of *I Segundu Na Maga'lahi* [Lieutenant Governor] a bureau of the government of Guam which *shall* be known as the *Guam State Clearinghouse.*

Notwithstanding any other provision of law to the contrary, the Guam State Clearinghouse *shall* have exclusive purview at the Guam level over all Federal aid programs, grants, loans, contracts, contributions, appropriations, advances, direct Federal development and other Federal funding sources for the government of Guam. The Guam State Clearinghouse *shall* be headed by a Director, who *shall* be *I Segundu Na Maga'lahi* [the Lieutenant Governor], who *shall* determine the positions and staffing pattern of the Guam State Clearinghouse.

SOURCE: GC § 5601 added by P.L. 13-149:V:1; repealed/reenacted by P.L. 17-25:III:2. Amended by P.L. 26-169:2 (Jan. 5, 2003), P.L. 31-168:1 (Jan. 4, 2012).

COMMENT: [To original section] The Legislature does not have the power to approve, with binding effect, by resolution any matter which will have the force and effect of law. See Attorney General Opinion PCF #85-1031; see also I*NS v. Chada,* 103 S.Ct. 2754 (1983).

In addition, the Organic Act, § 20, provides that the Legislature does not have the power to appropriate funds which have been appropriated already by the United States Congress. See *Wong v. Camina,* 2 Guam Rep. 132 (1978).

§ 2101.1. Duties and Responsibilities of the Guam State Clearinghouse.

In addition to the duties and responsibilities of the Guam State Clearinghouse as may be prescribed by *I Segundu Na Maga'lahi* [the Lieutenant Governor], or by law, the Guam State Clearinghouse *shall* also have the following duties and responsibilities:

(a) Administer the initiation, coordination and review process of all governmental activities within the government of Guam involving Federal financial assistance.

(b) Ensure that government grant proposals for Federal assistance are in accordance with plans, policies, programs, objectives and procedures of the government of Guam.

(c) Ensure that proposed government projects for which Federal financial assistance is sought are fiscally and environmentally sound and are in compliance with all applicable Federal laws.

(d) Ensure that the government of Guam complies with all applicable Federal laws relating to Federal financial assistance and that there exists sound tracking, management, and financial accountability for all Federal programs awarded to the government of Guam.

(e) Perform cost analysis on all Federal aid programs, grants, loans, contracts, contributions, advances, direct Federal development *or* other Federal funding for the financial impact on the government of Guam's General Fund *or* special funds used to fund the local matching requirement as prescribed by Federal law; and the financial impact on the government of Guam of continuing the Federal program by the government of Guam *if* the Federal funding expires. Said analysis *shall* describe the indirect costs the grantee government agency is eligible for, the amounts applied for

and received from each grant, the previous year's funding level and funding estimate for future years. Said analyses *shall* be performed as an integral part of the state clearinghouse process and submitted to the Speaker of *I Liheslaturan Guåhan*, the Chairperson of the Special Accounting Service, the Chairperson of the Special Economic Service, and the Director of the Bureau of Budget and Management Research within fifteen (15) days after completion. The cost analyses required hereby *shall* be included in *I Maga'lahi's* Executive Budget request pursuant to Title 5 GCA § 4107(b).

(f) With the exception of the Guam Community College, the University of Guam, and the Guam Department of Education, and notwithstanding any other provision of law to the contrary, no application for any Federal aid programs, grants, loans, contracts, contributions, advances, direct Federal development, or other Federal funding shall be submitted or deemed approved on behalf of the government of Guam or any agency, division, office, department or instrumentality thereof, or any public corporation, without the final approval of the Director of the Guam State Clearinghouse.

SOURCE: Added by P.L. 26-169:3 (Jan. 5, 2003). Subsection (e) amended and subsection (g) repealed by P.L. 29-019:VI:99 (Sept. 29, 2007). Amended by P.L. 31-168:1 (Jan. 4, 2012). Subsection (f) amended by P.L. 31-233:XII:34 (Sept. 7, 2012).

§ 2101.2. Transition.

Sixty (60) days after this Act shall become law, any and all powers previously held by the Bureau of Budget and Management Research ('BBMR'), and any other agency, council, board, office, officer or instrumentality of the government of Guam, or any public corporation, including, but not limited to, the Department of Administration, the Department of Agriculture, the Council on the Arts and Humanities, *I Dipattamenton I Kaohao Guinahan Chamorro* [Department of Chamorro Affairs], the Department of Public Health and Social Services, the Guam Behavioral Health and Wellness Center, the Guam Housing and Urban Renewal Authority, the Guam Economic Development and Commerce Authority, the Guam Health Coordinating Council, and the Hagåtña Restoration and Development Authority, with regard to the application for, receipt, disbursement, administration, oversight and review of any Federal aid programs, grants, loans, contracts, contributions, advances,

direct Federal development, and other Federal funding sources for Guam, shall cease and shall thereupon be assumed by the Guam State Clearinghouse.

Not later than sixty (60) days after this Act shall become law, all agencies, departments, councils, boards, divisions, offices or instrumentalities of the government of Guam, and all public corporations, shall submit to *I Segundu Na Maga'lahi* [the Lieutenant Governor] a full and complete listing of all existing Federal aid programs, grants, loans, contracts, contributions, advances, direct Federal development, and any other Federal funding sources over which each respective agency, department, council, board, division, office, public corporation or instrumentality has been involved in overseeing, administering or reviewing. Each such agency, department, division, office, public corporation or instrumentality shall render its full cooperation and assistance to *I Segundu Na Maga'lahi* [the Lieutenant Governor] to facilitate the transfer of authority over such programs, grants, loans, contracts, contributions, advances, direct Federal development and any other Federal funding sources to the Guam State Clearinghouse.

SOURCE: Added by P.L. 26-169:4.

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

§ 2101.3. UOG, GCC and DOE Exemptions.

The University of Guam, the Guam Community College, and the Department of Education shall be exempted from the provisions prescribed in Title 5 GCA §§ 2101, 2101.1 and 2101.2. However, the Presidents of the University of Guam and the Guam Community College, and the Superintendent of the Department of Education shall separately perform the following duties and responsibilities:

(a) administer the initiation, coordination and review process of all activities within the institution involving Federal financial assistance;

(b) ensure that grant proposals for Federal assistance are in accordance with plans, policies, programs, objectives and procedures of the government of Guam;

(c) ensure that proposed projects for which Federal financial assistance is sought are fiscally and environmentally sound and are in compliance with all applicable Federal laws;

(d) ensure that the institution complies with all applicable Federal laws relating to Federal financial assistance, and that there exists sound tracking, management, and financial accountability for all Federal Programs awarded to the institution;

(e) perform cost analysis on all Federal aid programs, grants, loans, contracts, contributions, advances, direct Federal development, or other Federal funding that the institution is applying for, for the financial impact on the institution and the government of Guam's General Fund or special funds used to fund the local matching requirement as prescribed by Federal law; and the financial impact on the institution and the government of Guam for the continuation of the Federal program should the Federal funding expire and require the government of Guam to financially assume the program's operation one hundred percent (100%); and

(f) the Presidents of the University of Guam and the Guam Community College, and the Superintendent of the Department of Education may delegate any of the foregoing duties and responsibilities to any officers or employees of their respective institution.

SOURCE: Added by P.L. 26-169:5. Amended by P.L. 31-233:XII:35 (Sept. 7, 2012).

§ 2102. Clearinghouse for Emergency Relief.

The Office of Lieutenant Governor shall be designated the clearinghouse for all programs or projects directly or indirectly related to the Territory's recovery, reconstruction and general public services rehabilitation resulting from the ravages of typhoons, tropical storms, earthquakes, tidal waves and territorial disasters as they may occur. All related construction projects must have the initial review of the Bureau of Planning and the Bureau of Budget and Management Research prior to submission to the Lieutenant Governor for approval, and must be submitted by the Lieutenant Governor to the Speaker for Legislative review and approval prior to implementation. Exceptions to this provision include projects of an emergency nature relating to the preservation of life and property.

SOURCE: GC § 5602 added by P.L. 13-149:V:1; repealed/reenacted by P.L. 17-025:III:2.

COMMENT: The Organic Act, § 20, provides that the Legislature does not have the power to appropriate funds which have been appropriated already by the United States Congress. See *Wong v. Camina*, 2 Guam Rep. 132 (1978).

The Legislature does not have the power to approve, with binding effect, by resolution any matter which will have the force and effect of law. See Attorney General Opinion PCF #85-1031; see also *INS v. Chada,* 103 S.Ct. 2754 (1983). Since this section does not specify the type of legislative approval required, the Compiler assumes that such approval will be given or withheld in conformity with the Organic Act.

§ 2103. Budget Authorization.

There is hereby authorized an annual budget for the Office of the Lieutenant Governor beginning with Fiscal Year 1977. This is to ensure the effective discharge of the responsibilities and duties of the Office of the Lieutenant Governor as an office separate from that of the Governor pursuant to Section 6 of the Organic Act of Guam and of this Chapter. Notwithstanding any provision of the law, rule, or regulation or Executive Order to the contrary, the funds allocated shall be administered solely by the Lieutenant Governor of Guam and expended upon his authorization for the purposes of the allocation.

SOURCE: GC § 5603 added by P.L. 14-6:6.

§ 2103.1. Lieutenant Governor's Appointment Powers.

The Lieutenant Governor of Guam shall have exclusive authority to appoint and remove officers and employees within the Office of the Lieutenant Governor, the Guam State Clearinghouse, and all other offices that may be established and placed under the purview or direction of the Lieutenant Governor of Guam.

SOURCE: Added by P.L. 28-145:2 (Aug. 15, 2006).

§ 2103.2. Suspension of Salary of *I Segundu Na Maga'lahen Guåhan*.

In the event that the annual operating budget for the government of Guam expires and *no* new annual operating budget has been enacted into law in accordance with the Organic Act, or rolled over from the previous year, then the salary of *I Segundu Na Maga'lahen Guåhan shall* be suspended and will resume prospectively *only* when a new annual operating budget for the government of Guam is enacted into law. This § 2103.2 *shall* be subject to the following provisions:

(a) Such suspension of salary *shall not* take place if the failure to enact an annual budget is due to an emergency resulting from a natural or other disaster, or hostile action.

(b) The government of Guam's share of retirement, Social Security, and health and other insurance payments *shall* be the individual responsibility of *I Segundu Na Maga'lahen Guåhan* for the suspension period.

SOURCE: Added by P.L. 31-071:2(b) (May 24, 2011).

§ 2104. Beautification Task Force.

(a) The Lt. Governor shall appoint an Islandwide Beautification Task Force, consisting of the Director of the Guam Visitors Bureau, the Director of the Department of Public Works, the Director of the Department of Parks and Recreation, the Director of the Department of Agriculture, the Director of the Department of Corrections (DEPCOR), and other members as the chairperson shall deem necessary. The Task Force shall be under the direction of the Office of the Lt. Governor, who shall serve as Chairperson of the Task Force.

(b) The Task Force shall work in conjunction with the Mayors' Council and existing government agencies and private individuals and organizations to beautify and promote Guam. Its function shall include, but not be limited to, the coordination of efforts for the clearing of overgrown weeds or trees, the planting of plants or flowers, and the restoration of graffiti inflicted structures along the island's highways and scenic areas.

(c) The Task Force shall purchase only those horticultural products grown on Guam.

SOURCE: Added by P.L. 23-19:1 (5/30/95).

§ 2105. Environmental Clearinghouse for Federal Land Transfers.

The Office of Lieutenant Governor shall be designated the Environmental Clearinghouse for all federal land transfers as they relate specifically to Environmental review and restoration concerns. All Environmental review for clean-up of federal land transfers must have the initial review of the Bureau of Planning, the Department of Land Management, the Guam Environmental Protection Agency, the

Department of Law and any affected agency of the government of Guam as determined by the Lieutenant Governor.

(a) The Bureau of Planning shall serve as the lead agency under the direction of the Lieutenant Governor for overall Environmental Clearinghouse transactions and shall collect and distribute records, reports and other relevant information essential for review and ensuring compliance with federal and Government of Guam statutes and regulations.

(b) The Department of Land Management shall authenticate and evaluate land related documents and data.

(c) The Guam Environmental Protection Agency shall evaluate environmental studies and other associated documents and data and generally carry out its role as the lead Government of Guam agency for environmental matters. In particular, Environmental Baseline Surveys conducted under federal CERCLA and CERFA shall be thoroughly evaluated and appropriate recommendations shall be formulated and submitted to the Lieutenant Governor of Guam.

(d) The Department of Law shall review and advise on the acceptability of land deed agreements with respect to environmental clean-up actions as they apply to Guam laws and federal laws.

(e) Agencies involved in the Environmental Clearinghouse review shall conduct necessary inquiries, fact finding investigations and evaluations as directed by the Lieutenant Governor and submit findings and recommendations to the Bureau of Planning.

(f) The Bureau of Planning shall prepare the Environmental Clearinghouse review summary report under the title CLEARINGHOUSE RECORD OF REVIEW for the signature of the Lieutenant Governor. This report shall be filed with land records documentation at the Department of Land Management.

(g) Additionally, the Guam Environmental Protection Agency shall prepare for the Office of the Governor and the Guam Legislature an annual assessment report due the following March 31st of the reporting year. The purpose of the report is to ensure proper follow-up and monitoring for satisfactory progress on any and all outstanding environmental restoration work or actions as

mandated by law and regulations regarding lands that have been transferred from the federal government.

(h) The Environmental Clearinghouse shall ensure proper and expeditious return of federally-held excess lands and, furthermore, strive to ensure that all necessary and essential environmental evaluation and restoration works are effectively carried out.

SOURCE: Added by P.L. 23-101:2

ARTICLE 2
THE GUAM PRODUCT SEAL TASK FORCE ACT

SOURCE: Article 2 added by P.L. 31-150:2 (Nov. 21, 2011).

§ 2201. Short Title.
§ 2202. Guam Product Seal Task Force, Established.
§ 2203. Convening of the Guam Product Seal Task Force.
§ 2204. Composition of Guam Product Seal Task Force.
§ 2205. Duties of Task Force.
§ 2206. Conduct of Meetings.

§ 2201. Short Title.

This Chapter shall be known as *The Guam Product Seal Task Force Act.*

§ 2202. Guam Product Seal Task Force, Established.

The Guam Product Seal Task Force is established for the special purpose of protecting the Guam brand by restricting and or limiting the use of the word "Guam" or "*Chamorro*", or a derivation of such words, on consumable commodities *not* made in Guam in order to promote and enhance the "Made in Guam" label and experience.

The Task Force *shall* provide policy direction and recommendations relative to coordination, planning, implementation, administration, promotion, compliance and enforcement of the Guam Product Seal Permit program and accompanying administrative rules and regulations.

§ 2203. Convening of the Guam Product Seal Task Force.

The Guam Product Seal Task Force *shall* be under the direction of the Office of *I Segundu Na Maga'lahi* (the Lt. Governor) and convened pursuant to the provisions of this Act.

§ 2204. Composition of Guam Product Seal Task Force.

The composition of the Guam Product Seal Task Force *shall* be as follows: *I Segundu Na Maga'lahen Guåhan* (the Lieutenant Governor of Guam), who *shall* also serve as the Chairperson; the designated Program Coordinator of the current Guam Product Seal Permit program from the Department of Revenue and Taxation (DRT), who *shall* also serve as Vice Chair; the Department Directors, or their assigned representative, of the Guam Customs and Quarantine Agency (CQA), the Department of Revenue and Taxation (DRT), the Department of *Chamorro* Affairs (DCA), the Guam Visitors Bureau (GVB), the Guam Economic Development Authority (GEDA), and Department of Public Health and Social Services (DPHSS); the President of the Mayors Council of Guam (MCOG), or its assigned member representative; a representative from the Office of the Attorney General of Guam, designated by the Attorney General, who may appoint himself; two (2) currently licensed holders of the Guam Product Seal appointed by *I Maga'lahi* (the Governor); a member from the Guam Chamber of Commerce as designated by the Chamber; and one (1) member from the island community appointed by *I Maga'lahi* (the Governor); a counselor or representative from the Small Business Development Center of the School of Business and Public Administration, University of Guam.

(a) The Task Force may invite additional public and private sector members to serve on sub-committees, *provided*, that they possess significant background, knowledge and experience with locally produced products; and the Task Force may prescribe special procedures for their participation.

(b) The Office of *I Segundu Na Maga'lahi* (the Lt. Governor) *shall* support the administrative needs of the Task Force.

§ 2205. Duties of Task Force.

The Task Force *shall* work collaboratively to create recommendations that will develop a comprehensive Guam Product Seal Permit Program with the overall goal of enhancing and better promoting products that are "Made in Guam."

Its function *shall* include, but is *not* limited to, recommending policy and adoption of a comprehensive Guam Product Seal Program that promotes the Guam brand in products manufactured in Guam or "Made in Guam". The Task Force *shall* address the following in its findings and recommendations:

(a) to create a mission statement and objective of the Guam Product Seal Program;

(b) the assignment of the administrative functions of the Guam Product Seal (GPS) Program; i.e., which Agency shall have administrative oversight over the Program; the Office of the Lt. Governor may decide to retain administrative functions of the program;

(c) address intellectual property rights and concerns relative to the term "Guam," "*Chamorro*," or derivations of either Guam or *Chamorro*;

(d) develop a feasible program funding and continuity plan, and a budgetary proposal;

(e) evaluate the design of the current GPS label, and recommission if necessary;

(f) clearly mark the delineation and assignment of the compliance and enforcement responsibilities, and the authorities of respective regulatory and enforcement agencies relative to the provisions of the GPS program; i.e. complaints, investigations and enforcement requirements;

(g) identify and record all Guam Product Seal holders, and businesses that manufacture commodities for sale in the tourism industry;

(h) identify incentives and advantages that encourage participation in the program;

(i) review the structure of fines and penalties to ensure maximum deterrence for violating the GPS mandate. Visit issues such as asset forfeiture; costs for additional CQA cost recovery (administrative, destruction, storage, etc.); penalties (civil and criminal) for repeat offenders; title and transfer of seized property *not* in compliance with the GPS statute;

(j) make appropriate recommendations for legislation to improve the Guam Product Seal Permit Program; recommendations *shall* include the following:

(1) address country of origin label concerns;

(2) address the use of the words "Guam" and "*Chamorro"* and derivations of;

(3) develop minimum standards, font size, and location of product origin on labels of consumable goods sold on Guam;

(4) develop retail partnership and community buy-in for Guam products;

(5) propose "Made in Guam" incentives/programs;

(6) strengthen compliance and enforcement schedules and guidelines; and

(7) review the applicability of copyright and intellectual property infringement and trademark violations.

(k) formulate an updated version of the Guam Product Seal Permit Program. Such plan *shall* be submitted to *I Liheslaturan Guåhan no later than* one hundred twenty (120) days from the date of enactment of this Act;

(l) execute fines for non-compliance of the Guam Product Seal mandates and its accompanying administrative rules and regulations; and

(m) perform all functions necessary to effectuate the mission of the Task Force as adopted.

§ 2206. Conduct of Meetings, Quorum.

The Task Force *shall* meet *no less than* once every month, and as needed to discuss and assess progress and recommendations.

A simple majority of members of the Task Force who are present and voting *shall* constitute a quorum to do business; and any action taken by the Task Force *shall* be by a simple majority of the members.