

**5 GCA GOVERNMENT OPERATIONS
CH. 60 DEPARTMENT OF AGRICULTURE**

**DIVISION 6
AGRICULTURE**

**CHAPTER 60
DEPARTMENT OF AGRICULTURE**

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- Article 2. Organization & Administration of Department of Agriculture.
- Article 3. Loan Funds.

**ARTICLE 1
GENERAL PROVISIONS**

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- § 60103. Provisions as Continuation of Prior Law.
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§ 60101. Title.

This Division of the Guam Code Annotated shall be known and be cited as the *Agricultural Law*.

SOURCE: GC § 12000.

NOTE: The original Title XIII of the Government Code was repealed by P.L. 3-103, the same law enacting this Chapter. The effective date of both the repeal and of this Chapter was August 1, 1956. All references to a Govt. Code section in the SOURCE references in this Division will refer to P.L. 3-103 unless amended, repealed or reenacted by later law.

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All references in the original Government Code to *Title* have been changed to *Division* so as to refer to the same subject matter as in the original.

§ 60102. Definitions.

The following definitions shall be used in interpreting this Division:

(a) *Department* means the Department of Agriculture of the government of Guam.

(b) *Director* means the Director of the Department of Agriculture.

(c) *Person* means any person, association, organization, partnership, business trust, or corporation.

(d) *Inspector* or *agent* means Department employee or deputy authorized by the Director to carry out any power granted by this Division.

(e) *Agriculture* means the growing, care and use of plants and animals, and includes acts and things related thereto.

(f) *Farmland* means land in Guam used for agricultural purposes, including general farming, fruit growing, flower growing, grazing, dairying, the production of any other form of livestock or poultry, and any other form of agricultural activity. It includes land required for an adequate farm dwelling and other essential farm buildings, roads, and wasteland.

(g) *Cooperative Association* means a nonprofit association of farmers or fishermen organized under the *Nonprofit Cooperative Association Act of Guam* (18 GCA Chapter 13).

SOURCE: GC § 12001. Subparts (f) and (g) added by P.L. 11-119.

§ 60103. Provisions as Continuation of Prior Law.

(a) The provisions of this Division, insofar as they are substantially the same as existing [pre-August 1956] statutory provisions relating to the same subject matter, shall be construed as continuations thereof and not as new enactments.

(b) All persons who, at the time this Division goes into effect [8/1/56], hold office under any of the laws repealed by this Division, continue to hold the same according to the former tenure thereof.

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(c) All rules and regulations promulgated under existing statutory provisions and authority [pre-Aug. 1956], which are not inconsistent with the provisions of this Division, shall continue in full force and effect as if they had been promulgated under the provisions of this Division.

SOURCE: GC § 12002.

§ 60104. Division Not Retroactive.

Any action or proceeding commenced before this Division takes effect [8/1/56], and any right accrued therefor, is not affected by the provisions of this Division but all procedure hereafter taken shall conform to the provisions of this Division as far as possible.

SOURCE: GC § 12003.

§ 60105. Enforcement Powers.

Any person in whom the enforcement of any provision of this Division is vested, has the power of a peace officer as to such enforcement. Whenever any power or authority is given by any provision of this Division to any person, it may be exercised by any deputy, inspector, or agent duly authorized by the Director.

SOURCE: GC § 12004.

CROSS-REFERENCES: See 8 GCA § 5.55 relative to Peace Officers.

§ 60106. Entry for Inspection.

Any person carrying out any power or authority granted him by this Division, in a manner prescribed herein or in a proper manner, may enter upon any premises to carry out his duties.

SOURCE: GC § 12005.

§ 60107. Violation.

(a) The Director of the Department of Agriculture, through the Administrative Adjudication Law, is hereby authorized to enact schedules for penalties and citations that:

(1) do not exceed One Thousand Dollars (\$1,000.00) per incident; and

(2) allow any peace officer on Guam to issue a citation for a violation of Chapters 60 and 63 of Title 5 of the Guam Code

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Annotated, their supporting regulations and Public Law 24-21 as appropriate.

(b) (1) A citation issued pursuant to Chapters 60 and 63 of Title 5 of the Guam Code Annotated, their supporting regulations and Public Law 24-21, shall be accompanied by a notice to appear at the Traffic Court Division of the Superior Court of Guam. Failure of the person cited to appear as directed by the notice may subject him to further penalties for contempt of court.

(2) Violations of this Article shall be prosecuted in the Traffic Court Division of the Superior Court of Guam, which shall impose the penalties created herein. Parents and legal guardians shall be responsible for any violations hereof committed by minors under their custody.

(c) All monies collected by the court for fines and penalties imposed hereunder shall be transferred to the Wildlife Conservation Fund as described in § 63130 of Article 1, Chapter 63, Division 6 of Title 5 of the Guam Code Annotated. The Superior Court shall render a quarterly report to the Department of Agriculture reflecting defendants' names, addresses and other identifying information regarding violators who have been ordered to remit fines and penalties. The Superior Court shall create forms approved by the Director of the Department of Agriculture for citations, record violations, provide for the administration of the prosecution of violators and establish an orderly, secure and efficient procedure for the processing of Natural Resource citations pursuant to Subsections (a) and (b) hereof.

(d) The Director of the Department of Agriculture may enter into such written Memoranda of Understanding with the Superior Court of Guam and other government of Guam agencies as are necessary to effectuate the purposes of this Act.

(e) The Director of the Department of Agriculture may also enact such regulations to effectuate the purposes of this Act as are appropriate. The existing penalties as described in § 63129 of Chapter 63 of Title 5 of the Guam Code Annotated, Public Law 28-107, and their supporting regulations to include Public Law 24-21 shall remain in effect until the new schedule of penalties and citations is enacted.

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(f) Nothing in this Section shall nullify or modify any civil or criminal law enforcement powers, penalties or obligations granted by federal or local law to the Department of Agriculture to punish offenses of the hunting and fishing laws of Guam, including, but not limited to, the right to perform searches and seizures, to make lawful arrests and to seek and recover the forfeiture of items employed by violators.

SOURCE: GC § 12006 amended by P.L. 13-187:100; repealed/reenacted by P.L. 26-25:2. Amended by P.L. 28-174:2 (Jan. 29, 2007)

§ 60108. Regulations.

Regulations dealing with quarantine, pest control, fishing, slaughtering dairy cattle and experimental dairy cattle, egg labeling, and meat inspection shall be formulated by the Department and approved by the Director. If the Governor approves such regulations, he shall promulgate them as Executive Orders. Regulations, including any amendment or repeal thereof, shall be issued as follows:

(a) Approval and promulgation by Executive Order of the Governor.

(b) Filing of the original Executive Order with such officer of the Executive Branch of the government as shall be designated by the Governor by Executive Order. Such officer is hereinafter referred to as the *filing officer*.

(c) The filing officer shall indicate on the original of the Executive Order promulgating regulations the date and time of receipt thereof and affix his signature thereto. Such regulations shall thereupon become effective as of such date and time unless a subsequent date and time are provided in such regulations.

SOURCE: GC § 12007 amended by P.L. 9-247.

CROSS-REFERENCES: See 5 GCA Chapter 9, Administrative Adjudication Law, for the present procedure for promulgating rules and regulations.

NOTE: While 5 GCA § 9312 repeals all laws inconsistent with the Administrative Adjudication Law, of which that is the final section, please be aware that this section was last amended after the enactment of the initial 5 GCA § 9312. Section 9312 has been amended since the last amendment to this Section.

Note further that, under 5 GCA Chapter 9, the filing officer within the Executive Branch is the Compiler of Laws.

§ 60109. Files Open to the Public.

The filing officer shall maintain a complete file of all regulations which shall be open to public inspection during normal government business hours.

SOURCE: GC § 12007.1.

§ 60110. Distribution and Publication.

The filing officer may, to the extent funds are available, prepare and distribute copies of any regulations. The Compiler of Laws shall publish effective regulations, promulgated as herein set forth as part of the Guam Administrative Rules and Regulations.

SOURCE: GC § 12007.2 as amended by implication.

NOTE: For provisions concerning publication of all rules and regulations, see 5 GCA § 9304.

§ 60111. Submission to Legislature.

[Repealed.]

SOURCE: GC § 12007.3 added by P.L. 3-103; repealed by 5 GCA § 9312, eff. July 1, 1977.

§ 60112. Repeal by Later Laws.

Subsequent enactment of any law inconsistent with any regulation promulgated under the provisions of § 60108 of this Chapter shall have the effect of repealing such regulations.

SOURCE: GC § 12008.

§ 60113. Authority to Receive Money.

(a) The Department is authorized to receive monies derived from all fees provided under this Division, from the sale and rental of equipment, and from the sale of livestock, produce, fertilizers, plants, seeds, and pesticides. Such monies *shall* be promptly transmitted to the Treasurer of Guam, together with an accounting of the source from which such monies are derived, and deposited in the General Fund.

(b) The Department is authorized to receive monies from fees associated with the processing and issuance of “Clearing, Grading, and Construction Permits”, and *shall* develop and adopt a fee schedule for such permits. Monies from the “Clearing, Grading, and Construction Permit” fees *shall* be deposited in the “Plant Nursery Revolving Fund”.

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SOURCE: GC § 12009. Amended by P.L. 31-186:2 (Feb. 27, 2012).

CROSS-REFERENCES: See 5 GCA § 22108 for authorization to use revolving funds. The Department of Agriculture, and its program for the sale of seeds, is specifically mentioned in that section. Likewise, 5 GCA § 22108 provides the procedure for establishing such funds.

§ 60114. Plant Protection and Quarantine Revolving Fund Established.

[Repealed.]

SOURCE: Added as uncodified section by P.L. 26-140:4. As this is a permanent law. The Compiler added it here since the Director of Agriculture is the certifying officer for the fund. This section previously numbered 60113 mistakenly by the Compiler (section 60113 being already occupied), thus renumbered to section 60114.

This section was repealed by P.L. 28-52:1 (June 30, 2005) which provides: “All sums remaining in the Department of Agriculture’s Plant Protection and Quarantine Revolving Fund shall be transferred to the Department of Agriculture’s Guam Plant Inspection and Permit Fund. Section [60114] of Chapter 60 of Title 5 of the Guam Code Annotated shall be repealed *immediately* following such transfer.”

**ARTICLE 2
ORGANIZATION & ADMINISTRATION OF
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- § 60201. Organization.
- § 60202. Duties of Department.
- § 60203. Cooperative Agreements.
- § 60204. Veterinarian.

§ 60201. Organization.

The Director may arrange and classify the work of the Department and may consolidate, abolish or create divisions thereof. The Director may prescribe duties of such assistants, deputies, agents and other persons as are employed in the Department.

SOURCE: GC § 12025.

§ 60202. Duties of Department.

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The Department shall protect and promote the agricultural resources and economy of the Territory of Guam by research, quarantine, control, conservation, and extension work as authorized or required in this Division and in other laws.

SOURCE: GC § 12026.

§ 60203. Cooperative Agreements.

The Governor may enter into cooperative agreements with individuals and associations, and with agencies of the United States and United Nations, for the purpose of furthering the Department's program; provided, however, that no wildlife refuge, agricultural preserve or conservation reserve shall be established in Guam unless approved and enacted under Guam law.

SOURCE: GC § 12027; R/R by P.L. 22-63:3 (12/6/93).

§ 60204. Veterinarian.

The Department shall employ or otherwise have available for its use, a qualified veterinarian who shall perform such duties as are given him by law or regulation, or as prescribed by the Director.

SOURCE: GC § 12028.

**ARTICLE 3
LOAN FUNDS**

- § 60301. Farmer's and Fishermen's Small Loan Revolving Fund.
- § 60302. Classes of Loan.
- § 60303. Eligibility Requirement for Loans.
- § 60304. Security of Loans.
- § 60305. Conditions of Loan.
- § 60306. Repayment and Refinancing.
- § 60307. Revolving Loan Fund Creation, etc.
- § 60308. Loan Payments.
- § 60309. Appropriation Authorized.
- § 60350. Cooperative Association Revolving Fund.
- § 60351. Loans to Cooperatives.
- § 60352. Board of Trustees.
- § 60353. Assets & Liabilities Transferred.

§ 60354. Farm Protection.

§ 60301. Farmer's and Fishermen's Small Loan Revolving Fund.

There is hereby created the Farmer's and Fishermen's Small Loan Revolving Fund (the "Fund") to grant loans to farmers and fishermen of Guam. In granting such loans, the Director shall, subject to the Administrative Adjudication Law, promulgate all rules and regulations necessary for the operation of the Fund; provided, that loans granted under the Fund shall not exceed Fifty Thousand Dollars (\$50,000) per farmer or fishermen in either or both of the classes of loans in § 12010.1 below, and that interest charged on each loan shall not exceed four percent (4%) per annum.

SOURCE: GC § 12010 added by P.L. 11-119. Amended by P.L. 20-105:1.

§ 60302. Classes of Loan.

The following classes of loan are hereby established in granting loans:

(1) Class A - Improvement of farm lands:

(a) Improvement of far lands;

(b) Purchases, construction or improvement of essential non-residential buildings on farm lands.

(2) Class B - Farm operating loans:

(a) Farm operating loans. To carry on and improve a farming, manufacturing or fishing operation, including but not limited to:

(1) Purchase of farm and fishing equipment, and livestock.

(2) Payment of production, harvesting and marketing expenses including materials, supplies, labor and services.

(3) Loans for manufacturing, establishing and developing agricultural products and processing plants, using products grown on Guam as the principal ingredient.

(b) Emergency loans. To provide immediate relief and rehabilitation to qualified farmers and fishermen as follows:

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(1) In areas stricken by extraordinary rainstorms, winds, drought, tidal wave or other natural catastrophe.

(2) On farmlands stricken by livestock disease epidemic and crop blights.

SOURCE: GC § 12010.1 added by P.L. 11-119. Amended by P.L. 20-105:1.

§ 60303. Eligibility Requirement for Loans.

To be eligible for loans made under § 60301, an applicant shall be:

(a) A qualified farmer or fisherman.

(b) A citizen of the United States who has resided in Guam for at least three consecutive years.

(c) Willing to carry out all recommended farm and fishing management practices.

SOURCE: GC § 12010.2 added by P.L. 11-119.

§ 60304. Security of Loans. Mortgages.

Any loan in excess of Five Thousand Dollars (\$5,000) shall be secured by duly recorded first mortgage upon any of the following property within the territory:

(1) Fee simple farmland.

(2) Leaseholds of farmland where the lease has an unexpired term of at least two (2) years longer than the term of loan.

(3) Crops, livestock and equipment.

(4) Other chattels.

SOURCE: GC § 12010.3 added by P.L. 11-119. Amended by P.L. 20-105:1 (1989).

NOTE: P.L. 20-105:3, an appropriation, also states, with regard to the Fund:

In addition, the Fund shall consist of all moneys received from any person or organization as compensation for services rendered or facilities supplied, and all proceeds realized from the sale or other disposition of any equipment or supplies purchased with moneys from the Fund.

§ 60305. Conditions of Loan.

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Every borrower who is granted a loan under § 60301 shall comply with the following conditions:

(a) Expend no portion of his loan for purposes other than those sanctioned by the Department of Agriculture.

(b) Carry out recommended farm management practices, including the keeping of proper records.

(c) Not sell or otherwise dispose of the mortgaged property except on written consent of the lender and upon written conditions as may be prescribed by the lender.

(d) Undertake to pay, when due, all taxes, liens, judgments, or assessments which may be lawfully assessed against the property mortgaged, together with costs and expenses of any foreclosure of such mortgage.

SOURCE: GC § 12010.4 added by P.L. 11-119.

§ 60306. Repayment and Refinancing.

(a) Loans made under § 60301 shall be repaid in accordance with a payment plan specified by the Department with payments applied first to the interest and then to the principal.

(b) Additional payments in any sums, or the payment of the entire principal may be made at any date within the time period of the loan.

(c) The Department may, for satisfactory cause and at its discretion, extend the time within which the installment payment on the principal may be paid for a period not to exceed one year.

(d) For loans made for crops, poultry and livestock requiring six months or more before maturing or in production, the Department may defer the first payment of the principal until the crop, poultry or livestock matures or is in production, but not to exceed one year.

SOURCE: GC § 12010.5 added by P.L. 11-119.

§ 60307. Revolving Loan Fund Creation, etc.

There is within the government of Guam a Board of Trustees of the Revolving Loan Fund, hereafter referred to as the *Board of Trustees*, to consist of five members appointed by the Governor, two of which must be bona fide farmers. A member of the Department of Agriculture shall be appointed by the Governor as the Executive Secretary of the Board of

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Trustees who shall have no voting power. The members of the Board of Trustees shall elect one of its members as Chairman. The members shall receive no compensation. The duties of the Board of Trustees shall be as follows:

- (a) To establish administrative loan policies;
- (b) To review and act on all loan applications;
- (c) To require periodic examination and audit of the books and accounts of the Fund.

The members of the Board of Trustees shall serve for a term of three years, except that the first two appointments shall serve for two years, the remaining three appointments shall serve for three years. Any vacancy occurring prior to the expiration of the term for which the predecessor was appointed, shall be appointed for the remainder of such term.

SOURCE: GC § 12010.6 added by P.L. 11-119; amended by P.L. 12-49.

§ 60308. Loan Payments.

All loans shall be paid out on warrants signed by the Director of Agriculture.

SOURCE: GC § 12010.7 added by P.L. 11-119.

§ 60309. Appropriation Authorized.

There is hereby authorized to be appropriated \$350,000 to the Farmers' Small Loan Revolving Fund. All assets and liabilities of the Farmers' Small Loan Revolving Fund as established by P.L. 9-121, as amended, are hereby transferred to the Farmers' Small Loan Revolving Fund of this Article.

SOURCE: GC § 12010.8 added by P.L. 11-119.

§ 60350. Cooperative Association Revolving Fund.

There is hereby created a Cooperative Association Revolving Fund for the purpose of granting loans to farmers' and fishermen's cooperative associations.

SOURCE: GC § 12011 added by P.L. 11-119.

§ 60351. Loans to Cooperatives.

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Loans may be granted to cooperative associations engaged in production, marketing, purchasing, processing and providing farm business services, including:

(a) Facility loans to purchase or improve land, buildings and equipment for an amount not to exceed \$50,000 and a term not to exceed 20 years.

(b) Operating loans to finance inventories of supplies, warehousing, and other normal operating expenses for an amount not to exceed \$35,000 and a term not to exceed five years.

SOURCE: GC § 12011.1 added by P.L. 11-119.

§ 60352. Board of Trustees.

The Revolving Fund Loan Board of Trustees set forth in § 60307 shall administer the Fund in accordance with the provisions of § 60350 through § 60353 of this Chapter.

SOURCE: GC § 12011.2 added by P.L. 11-119.

§ 60353. Assets & Liabilities Transferred.

All assets and liabilities of the Guam Farmers Cooperative Association Revolving Fund as established by P.L. 9-121 are hereby transferred to the Cooperative Association Revolving Fund established by this Article.

SOURCE: GC § 12011.3 added by P.L. 11-119.

§ 60354. Farm Protection.

A farm for purposes of this section shall be farmland used for bona fide agriculture, as defined in § 60102 of this Title, and which encompasses over one half acre in size. No person who is engaged in agricultural use of farmland may be forced or required to stop such farming activities because of changes in the usages of surrounding lands, nor because of zoning changes.

(a) Any farm, as defined above, shall be deemed a preferred use of the land and, for so long as the land continues in production and continues to be used for agricultural purposes, said land shall be considered authorized as a farming area notwithstanding changes in zoning or changes in the usage and characteristics of the neighborhood in which it is located.

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(b) Any farm which is authorized herein for agricultural usage may continue to be used in a manner consistent with the traditional agricultural uses of the land in the past.

(c) If a farm as defined herein has been used for agricultural purposes within the previous two (2) years, there shall be a rebuttable presumption that the usage of the land is continuous and that there has been no abandonment of the farming operations on the land. Anytime the land is not being used for agricultural purposes for two (2) consecutive years, there shall be a rebuttable presumption that there has been an abandonment of the usage of the land for agricultural purposes.

(d) When land which was previously used for farming is no longer used for farming, and the agricultural operations have been abandoned as defined herein, the land shall be subject to the zoning laws and restrictions on use to the same extent as if it had never been used for agricultural purposes. The courts shall not order the cessation of agricultural usage for a farm, as defined herein, on the basis of inconvenience or discomfort which such usage may cause the neighbors of adjoining property, if such usage was originally commenced in a lawful manner.

(e) The provisions of this section do not override or supersede any existing laws which govern the use of pesticide or herbicide near populated areas.

(f) The definition of a farmer for the purpose of this section shall be as defined by provision II.1 of the Rules for Compensation to Farmers for Crop Damages in Section 2 of P. L. 22-64.

SOURCE: Added by P.L. 23-29:2 (06/27/95).

NOTE: The Definitions referred to in subsection (f) states:

Bona fide farmer shall mean a person registered with the Department who commercially grows for profit fruits, crops, ornamental, livestock, including aquaculture and/or similar products, who furnishes financial records that substantiate a claim to the Department's satisfaction and who is (a) a U. S. citizen, a permanent resident alien or who has been a resident of Guam for the immediately preceding five (5) years or (b) a corporation or partnership licensed to do business in Guam.
