

7 GCA CIVIL PROCEDURE
CH. 9A ATTORNEY ADMISSION AND DISCIPLINE

CHAPTER 9A
ATTORNEY ADMISSION AND DISCIPLINE

NOTE: This Chapter was formerly designated as Appendix A Chapter 9. The Compiler has removed the “Appendix A” designation and renumbered it as Chapter 9A to avoid confusion with the other Chapter 9 of this Title. Section numbers were formerly designated as 9101 to 9216 and are now designated 9A101 to 9A216.

COMMENT: Pursuant to P.L. 21-147 (7 GCA § 9104) the power to govern attorneys and the Bar of Guam is not transferred to the Supreme Court of Guam until that court not only is operating, but also has adopted its own rules for the governance of attorneys. Until that time, the following Chapter continues in effect.

As noted above, this Chapter was meant to be replaced by Supreme Court of Guam rules. On May 17, 1996, the Supreme Court by promulgation order adopted the existing rules governing admission and rules of discipline as its interim rules. (*In re: James S. Brooks*, Supreme Court Case No. ADC 03-002 (Order, July 19, 2005)). There, the Supreme Court stated:

The [Supreme] court explicitly continued the rules then in effect as the rules governing the admission in this jurisdiction. The provisions of the Integrated Bar Act, including Title 7 GCA § 9113, were in effect at that time and therefore continued to remain in effect after the court’s adoption of the interim rules. The court has subsequently amended the Rules Governing Admission to the Practice of Law and the Rules for the Discipline of Attorneys on numerous occasions but has not by order repealed all the other rules of admission and discipline previously in effect.

Thus, the provisions of the Integrated Bar Act are reproduced here in whole with this important cautionary note. **Each section must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and the current Rules for the Discipline of Attorneys to determine whether it was repealed.**

CHAPTER 9A
ATTORNEYS

Article 1. Attorney Admission; Integrated Bar.

Article 2. Attorney Ethics & Discipline.

ARTICLE 1
INTEGRATED BAR AND ADMISSION TO PRACTICE

NOTE: Title XXIX of the Government Code, Attorneys, § 28000 through § 28008, was repealed and a new Chapter 1 of Title XXIX, beginning with § 28008, was enacted by P.L. 14-102. All source references in this Article will refer to the law as enacted by P.L. 14-102, and any amendments thereafter.

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- § 9A101. Citation.
- § 9A102. Guam Bar: Membership; Public Body Corporate.
- § 9A103. Guam Bar: Regulation by Superior Court.
- § 9A104. Powers of Judicial Council: Admission.
- § 9A105. Admission: Certificate; copies.
- § 9A106. Unauthorized Practice of Law.
- § 9A106.1. Law Clerks.
- § 9A106.2. Preference in hiring law clerks
- § 9A107. Fees and Solicitation.
- § 9A108. Board of Law Examiners; Membership; Vacancies; Officers.
- § 9A109. Applicants for Admission; Rules and Regulations.
- § 9A110. Law Examiners: Meetings; Quorum.
- § 9A111. Admission: Fees; Expenses; Compensation.
- § 9A112. Use of Judicial Council Funds.
- § 9A113. Qualifications for Admission to Bar.
- § 9A114. Special Provisions for Government Attorneys
- § 9A114A. Government Attorneys.
- § 9A115. Persons Admitted in Another Jurisdiction.
- § 9A116. Exemption: Foreign Attorneys.
- § 9A117. Examination of Schools and Colleges.
- § 9A118. Law Enforcement Officers. Aid in Investigations.
- § 9A119. Continuation of Prior Licenses.

§ 9A101. Citation.

This article may be cited as the ‘Guam Integrated Bar Act’.

SOURCE: GC § 28008. Formerly numbered Appendix A 7 GCA § 9101, renumbered by Compiler to § 9A101.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

§ 9A102. Guam Bar: Membership; Public Body Corporate.

The Bar of Guam is a public body corporate, the membership of which consists of all persons who are now and hereafter licensed to practice law in Guam. The members of the Bar of Guam are officers of the courts of Guam and have exclusive right to designate themselves as attorneys and counselors, attorneys at law or lawyers. No person is authorized to practice law in Guam unless he complies with the requirements of the Superior Court of Guam with regard thereto.

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SOURCE: GC § 28009. Formerly numbered Appendix A 7 GCA § 9102, renumbered by Compiler to § 9A102.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

§ 9A103. Guam Bar: Regulation by Superior Court.

The purpose of the amendment made by P.L. 17-62:4 was to remove from this section any reference to the power of the court to prescribe rules for discipline of members of the Bar. The subject of Discipline is covered in Article 2 of this Chapter, also enacted by P.L. 17-62.

SOURCE: GC § 28010; amended by P.L. 17-62:4. Formerly numbered Appendix A 7 GCA § 9103, renumbered by Compiler to § 9A103.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

§ 9A104. Powers of Judicial Council: Admission.

The Judicial Council has the power of subpoena and the authority to take testimony under oath, which may be exercised by its officers and committees, for the purpose of aiding in cases of applicants for admission to the Bar under such regulations and restrictions as the Superior Court may prescribe. The person exercising the power granted by this section has the power to administer the necessary oaths.

The Superior Court has jurisdiction to admit to the Bar of Guam persons who possess the required qualifications and to reinstate licenses to practice law.

SOURCE: GC § 28011; amended by P.L. 17-62:5. Formerly numbered Appendix A 7 GCA § 9104, renumbered by Compiler to § 9A104.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

COMMENT: The purpose of this amendment was to clarify the rather murky provisions of the original section, and to delete all references to disciplinary powers of the Judicial Council. Under Article 2 of this Chapter, the Judicial Council is to have no further involvement with attorney discipline.

§ 9A105. Admission: Certificate; Copies.

It is the duty of the clerk of the Superior Court, when a person is admitted to the Bar by such court, to administer to such person the oath prescribed by the Superior Court for members of the Bar and, upon payment

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of such sums as are necessary, to issue to such a person a certificate of his admission and to keep a record of such admission in the roll of attorneys and the journal of such court and to transmit promptly to the Bar of Guam without charge certified copies of admission. When a member of the Bar is suspended, or disbarred, or held in contempt, and when a person is reinstated as a member of the Bar, it is the duty of the clerk of the court so doing to transmit to the Bar of Guam without charge certified copies of such orders.

SOURCE: GC § 28012. Formerly numbered Appendix A 7 GCA § 9105, renumbered by Compiler to § 9A105.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

§ 9A106. Unauthorized Practice of Law.

It is unlawful for any person to practice law or to engage in the law business or in any manner whatsoever to lead others to believe that he is authorized to practice law or to engage in the law business or in any manner whatsoever to represent or designate himself as an attorney and counselor, attorney at law or lawyer unless the person so doing is regularly licensed and authorized to practice law in Guam. Any person who violates the provisions of this Section is guilty of contempt of the Superior Court and upon conviction is punishable as provided by law. On the conditions set forth in § 9A216 of this Chapter, this Section does not apply to a foreign attorney who is duly licensed and authorized to practice law in another state or territory or the District of Columbia while temporarily in Guam and engaged in a particular matter.

SOURCE: GC § 28013. Formerly numbered Appendix A 7 GCA § 9106, renumbered by Compiler to § 9A106.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

CROSS-REFERENCES: See § 9A215 of this Chapter for a detailed list of what is and what is not the unlawful practice of law. Section 9215 is a later amendment to this Chapter.

§ 9A106.1 Law Clerks.

(a) Definitions. As used in this section:

(1) Law clerk means a person who has successfully completed at least one (1) year of full-time study in a law school accredited by the American Bar Association and who is employed by or under the direct

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supervision of an attorney who is a member of the bar of the highest court of any state or territory of the United States.

(2) Senior law clerk means a person described in paragraph (1) of this subsection who, in addition, has graduated from a law school accredited by the American Bar Association, but who has not yet become a member of the bar of any state or territory.

(b) The actions of a law clerk or senior law clerk in performing the duties of such position as described in this section shall not be considered to constitute the unauthorized practice of law as described in § 9A106 of this Chapter.

(c) A law clerk may be permitted to perform legal research and drafting of briefs, memoranda and other papers for submission to the law clerk's employer as an internal work product. All such work shall be subject to the supervision, review and approval of a licensed attorney.

(d) A senior law clerk, in addition to performing the duties described in subsection (c) of this Section, may be permitted to engage in the following activities upon approval by the Presiding Judge of the Superior Court and under the direct supervision of a licensed attorney:

(i) If specially designated by the Attorney General, to act individually as prosecuting attorney in the prosecution of petty misdemeanors and of minor offenses in which the accused is charged by means of a citation instead of by complaint or indictment;

(ii) to appear individually on behalf of the government of Guam in Juvenile Special Proceedings in the Superior Court;

(iii) to appear as an assistant to the trial counsel of record for the government of Guam at any pre-trial or trial stage of a criminal or civil trial. No appearance or participation by a senior law clerk in any pre-trial or trial proceedings shall be permitted unless the supervising trial counsel is present in court at all times during such appearance or participation.

(iv) In addition to the duties authorized under paragraphs (i) through (iii) of this subsection, a senior law clerk may carry out other duties as may be permitted by the Superior Court rules.

SOURCE: Added as GC § 28013.1 by P.L. 20-207:3. Formerly numbered Appendix A 7 GCA § 9106.1, renumbered by Compiler to § 9A106.1.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

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§ 9A106.2. Preference in Hiring Law Clerks.

Government of Guam departments or agencies hiring law clerks shall give preference to returning resident law students and law graduates who are receiving or have received financial assistance from the government of Guam.

SOURCE: Added as GC § 28013.2 by P.L. 20-207:4. Formerly numbered Appendix A 7 GCA § 9106.2, renumbered by Compiler to § 9A106.2.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

§ 9A107. Fees and Solicitation.

(a) The measure of the compensation of members of the Bar is left to the express or implied agreement of the parties subject to the regulation of the Superior Court.

(b) Any agreement for such compensation or for reimbursement of any expenses incident to the prosecution or defense of any claim by any party is wholly void if such professional employment was solicited by the member of the Bar or by any other person acting on his behalf or at his request, unless the services of such member of the Bar were first requested by such party.

SOURCE: GC § 28014. Formerly numbered Appendix A 7 GCA § 9107, renumbered by Compiler to § 9A107.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

CROSS REFERENCES: 7 GCA § 26601. Compensation of Attorneys; Cost to Parties; 7 GCA Appendix, Rule 1.5 - Guam Rules of Professional Conduct.

§ 9A108. Board of Law Examiners; Membership; Vacancies; Officers.

The Judicial Council is hereby constituted the Board of Law Examiners. The clerk of the Superior Court is the ex officio secretary-treasurer of the Board.

SOURCE: GC § 28015. Formerly numbered Appendix A 7 GCA § 9108, renumbered by Compiler to § 9A108.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

§ 9A109. Applicants for Admission; Rules and Regulations.

The Board of Law Examiners has charge of the investigation and

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examination of all persons who initially apply for admission to the Bar of Guam. The Board may adopt suitable regulations, subject to approval by the Superior Court, concerning the performance of its functions and duties. The Board has the power to subpoena and the authority to administer oaths and to take testimony under oath which may be exercised by any member of the Board in cases of applicants for admission to the Bar.

SOURCE: GC § 28016. Formerly numbered Appendix A 7 GCA § 9109, renumbered by Compiler to § 9A109.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

§ 9A110. Law Examiners: Meetings; Quorum.

The Board of Law Examiners shall meet at least twice in each year at such times and places as its chairman shall determine for the purpose of investigating, examining, hearing and passing upon the qualifications of applicants for admission to the Bar and to transact such other business as may come before the Board. Three (3) members of the Board shall constitute a quorum. The action of a majority of the members present at a meeting at which a quorum is present shall be the action of the Board.

SOURCE: GC § 28017. Formerly numbered Appendix A 7 GCA § 9110, renumbered by Compiler to § 9A110.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

§ 9A111. Admission: Fees; Expenses; Compensation.

The fees required to be paid by applicants for admission to the Bar shall be paid to the Board of Law Examiners and shall be deposited in the Treasury of Guam and shall constitute a separate fund for the reimbursement of expenses of members of the Board of Law Examiners and for the payment of such expenses as are necessary to conduct the Bar examinations.

SOURCE: GC § 28018. Formerly numbered Appendix A 7 GCA § 9111, renumbered by Compiler to § 9A111.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

§ 9A112. Use of Judicial Council Funds.

Notwithstanding other provisions of law to the contrary, the Board of Law Examiners may use funds of the Judicial Council in order to

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accomplish its purposes.

SOURCE: GC § 28018.1 added by P.L. 14-124:20. Formerly numbered Appendix A 7 GCA § 9112, renumbered by Compiler to § 9A112.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

§ 9A113. Qualifications for Admission to Bar.

A person is qualified for admission to the Bar of Guam who proves to the satisfaction of the Board of Law Examiners:

(a) that he has resided in Guam for not less than three (3) months preceding certification and intends in good faith to practice in Guam;

(b) that he is at least eighteen (18) years of age;

(c) that he is of good moral character;

(d) that he has not been convicted in any court of a felony or any crime involving moral turpitude;

(e) that he has completed at least two years of college;

(f) that he/she has graduated from a law school in the United States, its territories or possessions, which is accredited by the American Bar Association or that he/she has previously taken and passed one (1) or more parts of the Guam Bar Examination after graduating from a law school not accredited by the American Bar Association but previously approved by the Judicial Council. No correspondence law school may be so approved.

(g) that he has passed a final examination given by the Board of Law Examiners, which examination shall be given at least twice each year.

SOURCE: GC § 28019; subsection (e) amended by P.L. 14-104:10; subsection (f) amended by P.L. 14-104:10 and P.L. 17-29:12 and repealed/reenacted by P.L. 20-175:3 (5/18/90). Formerly numbered Appendix A 7 GCA § 9113, renumbered by Compiler to § 9A113.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

NOTE: The former law (before P.L. 20-175) added, between the end of subsection (f) and the beginning of subsection (g): ", and". P.L. 20-175 ended subsection (f) as shown in this publication.

§ 9A114. Special Provisions for Government Attorneys.

Any person employed as an attorney by the Government or by the Guam Legal Services Corporation or by the United States may be admitted

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temporarily without written examination and only for the purposes of such employment if, upon application, the Board determines that the person meets the qualifications of subsections (b) through (f) of § 9A113 of this Article; and is:

(1) admitted to practice in the highest court of a state or territory of the United States; and

(2) professionally, morally and ethically qualified for admission to the Bar of Guam and the admission of such person would be in the best interests of the Territory.

In every case, the burden shall be upon the person seeking admission pursuant to this section to establish his qualifications for admission. An admission issued pursuant to this section shall state its temporary nature and it shall terminate automatically when the person ceases to be employed by the Government or by the United States. While admitted under this section, a person shall be classified as an active member of the Bar of Guam with all the responsibilities and privileges thereof.

SOURCE: GC § 28019.1 added by P.L. 14- 104:1; amended by P.L. 15-66:VI:17-18; 15-94:10, 16-45:1, 16-72:18; repealed/ reenacted by P.L. 16-80:11; expiration date repealed by P.L. 17-3:3. Formerly numbered Appendix A 7 GCA § 9114, renumbered by Compiler to § 9A114.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

COMMENT: This section has had a long and complex history. Most recently, it was reenacted by P.L. 16-80:11. However, sections 12 and 13 of that same public law simultaneously repealed the reenactment and put off that repeal until March 5, 1983 (about one year after enactment of the law itself). The result would have been that this reenacted section had a life of only one year. However, before that could take place, P.L. 17-3:3, which became law on March 3, 1983, repealed both sections 12 and 13 of P.L. 16-80. The result of this repealer is that the above section remains in effect with no "sunset provision" attached.

§ 9A114A. Government Attorneys.

Any person who is a member of the bar of the highest court of any state or territory of the United States or of the District of Columbia, while representing the United States of America, the government of Guam, or any agency, instrumentality, officer or employee thereof, in the course of his or her official duties, may practice before the courts of Guam without being admitted to practice pursuant to either §28002 or §28002.1; provided, however, that the authority to practice without admission to the Bar of Guam shall lapse as to any person who has not taken the Guam Bar

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Examination within two (2) years from the commencement of his or her employment with the government or who has not been admitted to the Bar of Guam within three (3) years of the commencement of his or her employment with the government. The two-(2-) and three-(3-) year periods specified in this section shall run from the effective date of this section for persons in the employ of the government on such effective date.

SOURCE: Section 8 of P.L. 21-147 (Supreme Court). Effective May 1, 1993. Formerly numbered Appendix A 7 GCA § 9114A, renumbered by Compiler to § 9A114A.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

COMMENT: Section 8 is new. Technically, Section 8, by the terms of 7 GCA § 9A103 and § 9A104, will be repealed at such time as the Supreme Court adopts its own rules to govern the Bar of Guam and attorneys admitted to that Bar. This is because the Chapter of the government code, of which Section 8 is a part, is repealed completely by 7 GCA § 9A103, located in Section 2 of this same Act.

NOTE: While the Legislature made reference to §28002 and §28002.1, these sections have been repealed. Current law dealing with the admission of attorneys generally and to government attorneys in general are now found at § 9A113 and § 9A114, respectively. As written, no such sections now exist. Even under the most recent government code amendments, they did not exist.

§ 9A115. Persons Admitted in Another Jurisdiction.

An applicant who is a member in good standing before the highest court in any state or territory of the United States or the District Court of Columbia may be admitted to the Guam Bar on the terms and conditions set forth in § 9A113 of this Article.

SOURCE: GC § 28020. Formerly numbered Appendix A 7 GCA § 9115, renumbered by Compiler to § 9A115.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

§ 9A116. Exemption: Foreign Attorneys.

Any person who is a member of the Bar of the highest court of any state or territory of the United States or the District Court of Columbia while temporarily in Guam and engaged in a particular matter may, on a case by case basis, petition the court to practice before the courts of Guam without being admitted to practice pursuant to this Article for a period not to exceed one (1) year.

SOURCE: GC § 28021. Formerly numbered Appendix A 7 GCA § 9116, renumbered

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by Compiler to § 9A116.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

§ 9A117. Examination of Schools and Colleges.

The Board of Law Examiners, or its designee, has the authority to examine or to cause to be examined any school, college or law school for the purpose of determining whether the standards of education and training required for admission to the Bar are being maintained and to exclude from the Bar examination any person who was a student therein at the time any such educational institution is found to have been disqualified or of questionable reputation. The Board of Law Examiners may exclude from the Bar examination any person who was a student in any such educational institution if such educational institution refuses to allow the examination.

SOURCE: GC § 28022. Formerly numbered Appendix A 7 GCA § 9117, renumbered by Compiler to § 9A117.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

§ 9A118. Law Enforcement Officers: Aid in Investigations.

It is the duty of all Guam law enforcement agencies to aid the Bar of Guam and the Board of Law Examiners, or its designee, in any investigation of the conduct of members of the Bar and the character and fitness of persons who apply for admission or reinstatement in the Bar and to furnish all available information about such individual.

SOURCE: GC § 28023. Formerly numbered Appendix A 7 GCA § 9118, renumbered by Compiler to § 9A118.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

§ 9A119. Continuation of Prior Licenses.

All persons licensed to practice law in Guam on the effective date of this Act shall automatically become members of the Bar of Guam without being required to qualify therefor under the provisions of this Act. The clerk of the District Court of Guam shall certify and transmit to the clerk of the Superior Court the names of all such persons duly licensed to practice law in Guam as of the effective date of this Act.

SOURCE: P.L. 14-102:2. Formerly numbered Appendix A 7 GCA § 9119,

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renumbered by Compiler to § 9A119.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

COMMENT: Government attorneys, who were specially admitted to practice because of their position, were not "licensed to practice law" on the effective date of the Integrated Bar Act by reason of the limited authority formerly granted by statute allowing the government attorneys to practice law while in government service without being admitted to the Bar. *Baumgarten et al v Superior Court*, S.P. 29-78, Superior Court Guam, 1978.

ARTICLE 2
ATTORNEY DISCIPLINE

NOTE: This Article was added by P.L. 17-62:3 to replace all mention of attorney discipline in Article 1 of this Chapter. The effect is to wholly revamp the treatment of attorney discipline, giving all of the responsibility and authority for investigating disciplinary matters to the Guam Bar Association's Ethics Committee. The Judicial Council no longer has any responsibility or power in these matters. Following investigation and findings that discipline is warranted, the matter goes directly from the Ethics Committee to a three-judge panel of the Superior Court.

- § 9A201. Attorney Disciplinary Jurisdiction: Definitions.
- § 9A202. Ethics Committee of the Bar.
- § 9A203. Discipline of Attorneys.
- § 9A204. Administration of Disciplinary System.
- § 9A205. Additional Powers of the Ethics Committee.
- § 9A206. Grounds for Imposing Discipline.
- § 9A207. Sanctions to be Imposed.
- § 9A208. Standards of Conduct in General.
- § 9A209. Immunity from Liability for Official Action.
- § 9A210. Appeals Under this Article.
- § 9A211. Confidentiality of Proceedings.
- § 9A212. Announcing Ethics Committee's Existence.
- § 9A213. Administrative Adjudication Law & Open Govt. Law Not Applicable.
- § 9A214. Transition Provisions.
- § 9A215. Illegal Practice of Law.
- § 9A216. When Written Fee Agreements are required for Attorneys.

§ 9A201. Attorney Disciplinary Jurisdiction: Definitions.

- (a) Whenever the term Superior Court is used in this Article, it shall

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mean an action taken by a majority of all of the judges of the Superior Court sitting en banc, unless a different meaning is specifically stated.

(b) The Superior Court has jurisdiction to disbar, suspend, or otherwise discipline members of the Bar of Guam for misconduct.

(c) The Superior Court shall establish rules of disciplinary procedure, including evidentiary provisions, which shall apply to proceedings before the court under this Article. Such rules shall be effective upon their approval by a majority of the judges of the Superior Court.

SOURCE: GC § 28050. Formerly numbered Appendix A 7 GCA § 9201, renumbered by Compiler to § 9A201.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

§ 9A202. Ethics Committee of the Bar.

In performing the duties and responsibilities under this Article, the Bar of Guam shall act through an Ethics Committee, which shall consist of seven members of the Bar of Guam, all in good standing, appointed by the President of the Bar of Guam, and approved by the Superior Court, for terms as provided in the By-laws of the Bar of Guam. A quorum shall consist of four members and no action upon any recommendation for discipline may be taken without the concurrence of four members.

SOURCE: GC § 28051. Formerly numbered Appendix A 7 GCA § 9202, renumbered by Compiler to § 9A202.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

§ 9A203. Discipline of Attorneys.

(a) The Bar of Guam, through its Ethics Committee, is authorized to investigate and to hear all complaints brought by any source, or on its own motion, against attorneys admitted to the Bar of Guam. The Ethics Committee is authorized to investigate and hear and any complaints, or, on its own motion, initiate an investigation and complaint against any person who is alleged to be engaged in the unauthorized practice of law.

(b) The Ethics Committee shall establish rules governing the investigation, hearing and recommendation procedures relating to all matters coming before it. Such rules shall be approved by the Superior Court.

(c) Upon concluding its investigation, the Ethics Committee shall, if it

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determines discipline is to be recommended, or finds unauthorized practice of law, report to the Superior Court what action it recommends with respect to the complaint.

(d) The Ethics Committee may also attempt to mediate any complaint before it and, if it deems the behavior to be a minor infraction, issue a reprimand, public or private, as it deems proper. The Ethics Committee shall always consider the interests of both the complainant and of the profession as a whole when taking action under this subsection.

(e) Upon receipt of a recommendation for discipline, the Presiding Judge of the Superior Court shall promptly set the matter for a hearing. The hearing shall be conducted by a panel composed of three judges of the Superior Court and any decision shall require the concurrence of at least two of such judges. If any of the judges of the Superior Court shall disqualify themselves in the matter so that there are not three judges remaining to sit on the panel, the Presiding Judge shall appoint as judges pro tempore from attorneys as are admitted to the Bar of Guam and who are in good standing before it and who have not previously been subject of an order imposing discipline in Guam so as to make up a total of three judges to hear the discipline matter.

At the hearing, the disciplinary case shall be prosecuted by such counsel as the Chairman of the Ethics Committee shall designate, or by himself. The evidence, if otherwise admissible, found in the record of the hearing of the Ethics Committee and presented to the Superior Court shall be admitted. The person who is the subject of the complaint may rebut such evidence or mitigate it, through witnesses, argument, or both, as he deems proper, subject to the Rules of Court for Disciplinary Procedure. The prosecuting counsel may introduce additional evidence.

(f) An aggrieved party may appeal from such judgment in the manner provided by § 9A210 of this Article.

SOURCE: GC § 28092. Formerly numbered Appendix A 7 GCA § 9203, renumbered by Compiler to § 9A203.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

§ 9A204. Administration of Disciplinary System.

(a) The Ethics Committee shall administer the disciplinary system of the Bar of Guam as established in this Chapter through its Chairman and according to its Rules.

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(b) Any committee member shall be reimbursed for any expenses undertaken by him in furtherance of his duties under this Article and both the Chairman and the Ethics Committee members may be compensated for the time spent in the work of the committee in such amount as may be determined by the Board of Governors of the Bar of Guam.

(c) Subject to the supervision of the Ethics Committee, the Chairman, or a member designated by him with the approval of the Committee, may:

(1) employ at such compensation as may be authorized by the Board of Governors of the Bar of Guam, or contract for, the services of, such clerical personnel as may be necessary for the efficient conduct of his office;

(2) discharge any such personnel whose performance is unsatisfactory to him; and

(3) maintain such records, make such reports and perform such other duties as may be prescribed by the Ethics Committee from time to time.

SOURCE: GC § 28053. Formerly numbered Appendix A 7 GCA § 9204, renumbered by Compiler to § 9A204.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

§ 9A205. Additional Powers of the Ethics Committee.

(a) The Ethics Committee, upon majority vote of its members, has the power to issue subpoenas to compel the attendance and testimony of witnesses and compel the production or inspection by it of books, records and other tangible objects and the authority to take testimony under oath. The Committee may direct that such testimony or the subpoenaed books, records, documents, or other tangible objects be brought before the Committee or before a specified member thereof. Such powers are for the purpose of aiding in cases of discipline, suspension and disbarment of members of the Bar of Guam and investigating matters of alleged unauthorized practice of law under such regulations and restrictions as the Superior Court may prescribe.

(b) The Ethics Committee, upon majority vote of its members, may issue public or private advisory opinions respecting matters within the scope of the Committee's authority.

SOURCE: GC § 28054. Formerly numbered Appendix A 7 GCA § 9205, renumbered by Compiler to § 9A205.

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NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

§ 9A206. Grounds for Imposing Discipline.

Discipline may be imposed for any of the following reasons:

- (a) conviction of a crime other than a non-serious traffic offense;
- (b) violation of a rule of professional conduct in effect in Guam;
- (c) discipline imposed in another jurisdiction;

(d) violation of any disciplinary or disability rule or order of any court having jurisdiction in Guam, or any law imposing a rule of professional conduct upon attorneys.

SOURCE: GC § 28055. Formerly numbered Appendix A 7 GCA § 9206, renumbered by Compiler to § 9A206.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

§ 9A207. Sanctions to be Imposed.

The sanctions to be imposed in any given instance of a finding that an attorney is subject to discipline as provided in § 9A206, above, shall be determined by the Superior Court after hearing the recommendation of the Bar of Guam. Sanctions imposed by the Superior Court may range from permanent disbarment to suspension to a public reprimand.

SOURCE: GC § 28056. Formerly numbered Appendix A 7 GCA § 9207, renumbered by Compiler to § 9A207.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

§ 9A208. Standards of Conduct in General.

The Model Code of Professional Conduct of the American Bar Association, adopted by the Judicial Council and presented to the Legislature prior to the effective date of this Article, shall apply to the conduct of attorneys in Guam, unless it shall be changed by law or by Superior Court rule.

SOURCE: GC § 28057. Formerly numbered Appendix A 7 GCA § 9208, renumbered by Compiler to § 9A208.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine

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whether it was repealed. See **COMMENT** above.

§ 9A209. Immunity from Liability for Official Action.

Members of the Bar of Guam, and employees and agents of the Bar shall not be held liable for any action performed in the course of their official duties undertaken pursuant to this Article relative to the discipline of attorneys and to the unauthorized practice of law.

SOURCE: GC § 28058. Formerly numbered Appendix A 7 GCA § 9209, renumbered by Compiler to § 9A209.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

§ 9A210. Appeals Under this Article.

(a) The Bar of Guam, or an attorney against whom a final judgment has been rendered by the Superior Court in any case involving suspension, disbarment or non-disciplinary suspension or disbarment may appeal any final judgment of the Superior Court to the Appellate Division of the District Court of Guam on matters of law and fact, but the Appellate Division of the District Court of Guam may reverse or remand to the Superior Court on matters of fact only where the findings of the Superior Court on matters of fact were clearly erroneous.

The action of the Superior Court shall be stayed pending the outcome of the appeal to the District Court Appellate Division.

(b) A decision by the Ethics Committee on the matters within its authority to decide, such as reprimands and settlements, may not be appealed to the Appellate Division of the District Court of Guam, but reprimands may be appealed only to the Supreme Court. Proceedings in such an appeal to the Superior Court shall be taken in the same manner as are recommendations reported to the Court by the Bar of Guam, but shall be taken by the attorney aggrieved.

SOURCE: GC § 28059. Formerly numbered Appendix A 7 GCA § 9A210, renumbered by Compiler to § 9A2110.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

§ 9A211. Confidentiality of Proceedings.

All disciplinary proceedings and deliberations of the Ethics Committee of the Bar of Guam shall be confidential and private until the Committee

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has made its recommendations to the Superior Court or until the Ethics Committee issues the attorney in question a public reprimand, but the person under investigation may request that any hearings held may be open to the public. After the Ethics Committee has made its recommendation to the Superior Court or issued a public reprimand, it may publish the facts and nature of its recommendation.

SOURCE: GC § 28060. Formerly numbered Appendix A 7 GCA § 9211, renumbered by Compiler to § 9A211.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

COMMENT: The Superior Court has disqualified counsel for the Committee from continued representation of the Bar in that case because of a violation by counsel of the duty of confidentiality imposed by this section. *Bar of Guam Ethics Committee v. Sam S. Paik*, Decision and Order, S.P. 92-85-A, Superior Court, Sept. 22, 1986.

§ 9A212. Announcing Ethics Committee's Existence.

The Bar of Guam shall, at least three times a year, in a newspaper of general circulation available in public places in Guam, announce in a prominent manner the fact of its existence and purpose and where members of the public can seek information about the ethics duties of the Bar and the means by which the public may make a complaint against an attorney.

SOURCE: GC § 28061. Formerly numbered Appendix A 7 GCA § 9212, renumbered by Compiler to § 9A212.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

COMMENT: This section was inserted at the suggestion of a former Superior Court law clerk. The existence of an ethics committee of the Bar has been on-again, off-again. Therefore, it was felt that the public, who generally did not know where they could complain, or that they could complain outside of filing a suit, against attorneys, should be made aware of the Committee's role and where complaints could be received.

The public notice requirement not only required publication in a "newspaper of general circulation", but in one that also was publicly available. On occasion, legal notices have been published in the Pacific Voice, the organ of the Catholic Church. While this paper is widely circulated, it is not available to the public in the same manner as commercial papers such as the Pacific Daily News. Therefore, in order to gain the widest circulation, this additional requirement was added.

§ 9A213. Administrative Adjudication Law & Open Govt. Law Not Applicable.

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Neither the Administrative Adjudication Law nor the Open Government Law shall be applicable to proceedings, deliberations and activities covered by this Article; provided, that the Administrative Adjudication Law and Open Government Law of Guam shall be applicable to any rule-making functions of the Ethics Committee, but not the Superior Court, provided herein.

SOURCE: GC § 28062; amended by P.L. 18-04:3. Formerly numbered Appendix A 7 GCA § 9213, renumbered by Compiler to § 9A213.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

COMMENT: The purpose of the amendment was to exclude the Superior Court from the two laws even when the Superior Court is making rules under this Article. Before amendment, this section required both the Ethics Committee and the Superior Court to observe the two laws when rule-making. Such a requirement was unworkable and had contradictory provisions when applied to the Superior Court and its other rule-making powers.

§ 9A214. Transition Provisions.

(a) All disciplinary matters pending before the Judicial Council upon the effective date of this Article shall be transferred immediately to the Superior Court for proceedings in accordance with this Article. The Judicial Council shall have no further jurisdiction over such matters.

(b) All matters pending before the Committee on Professional Ethics and Unauthorized Practice of Law of the Bar of Guam upon the effective date of this Article shall with the newly constituted Ethics Committee under the procedures prescribed by this Article.

(c) Members of the Committee on Professional Ethics and Unauthorized Practice of Law of the Bar of Guam appointed and serving upon the effective date of this Article shall continue in their respective positions as members of the newly constituted Ethics Committee for the full term to which each was appointed.

(d) In determining matters of discipline under this Article, both the Ethics Committee and the Superior Court shall use the standards of conduct applicable at the time of the conduct in question.

(e) Rules promulgated by the Judicial Council pursuant to the Guam Integrated Bar Act shall remain in full force and effect except for the Rules for Lawyer Discipline, which are deemed repealed upon the effective date of this Article.

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SOURCE: GC § 28063. Formerly numbered Appendix A 7 GCA § 9214, renumbered by Compiler to § 9A214.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

COURT CASES: "A matter is pending from the moment is commenced until it reaches a final determination on appeal, or until the time for appeal has passed, unless the case is conclusively resolved later." [Citations omitted] "It is undisputed that the Ethics Committee had instituted a disciplinary proceeding against Cronin before the Judicial Council and that the matter was unresolved when GC 28063(a) was enacted. Therefore, based on the case law cited above, this matter was pending before the Judicial Council when it was transferred to this Court pursuant to GC 28063(a)." It is immaterial to the issue whether or not prior rules of conduct were properly adopted by the Judicial Council at that time. *Bar of Guam Ethics Committee v. Stephen A. Cronin*, S.P. 92-85-A, Decision & Order, Superior Ct. 3/11/86.

§ 9A215. Illegal Practice of Law.

(a) Within one hundred eighty (180) days of the effective date of this section, the Ethics Committee of the Guam Bar Association shall promulgate proposed rules and regulations which define the acts which constitute the practice of law within Guam.

Such rules and regulations shall then be submitted to the Judicial Council for approval or modification and adoption. Thereafter, such rules and regulations may be amended from time to time by the Judicial Council.

(b) The rules and regulations shall provide, among other things, that the following constitute the practice of law:

(1) Activities which relate to the rendition of service for others that call for the professional judgment of an attorney.

(2) Representing or advising any other person in any criminal matter for any compensation, direct or indirect.

(3) Representing any other person or advising any other person as to any lawsuit or action before any court, board, agency, or administrative tribunal, except as allowed by the rules and regulations to be promulgated pursuant to this § 9A215 or as allowed by this § 9A215

(4) Preparation for another of any deed, lease, mortgage, promissory note or other document transferring an interest in real property, evidencing a debt, or creating a security interest in real property. This subsection shall not apply to a full time employee of a bank, savings and loan association, loan company, finance company or

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vendor extending credit to another in the normal course of business. This subsection shall not apply to an employee preparing mortgage and loan documents for credit transactions extended by his employer in the regular course of business; provided, that (i) the employee is not compensated on a per document basis and (ii) the customer is not charged an extra fee for the preparation of documents. This subsection shall also not apply to the preparation of listing agreements, offers and acceptance of offers, and other documents incidental to listing and selling real property which are prepared by licensed real estate brokers or salesmen, but such persons may not prepare any documents to be recorded at the Department of Land Management.

(5) Preparation of articles of incorporation or by-laws for a corporation for any compensation, direct or indirect.

(6) Advice to another or preparation of documents relating to lawsuits, probate proceedings, juvenile proceedings, or bankruptcies.

(7) Preparation for another of court documents to be filed in any court or judicial tribunal.

(8) Preparation for another of powers of attorney.

(9) Acts which would constitute the practice of law under the common law, except as otherwise specifically provided in this section.

(10) Holding out oneself as an attorney admitted to practice law in Guam or elsewhere.

(11) Such other acts which the Judicial Council reasonably finds should be performed by an attorney to protect the public.

This subsection shall not be considered a limitation as to the definition of what constitutes the practice of law. Other items and acts which constitute the practice of law may be included in the rules and regulations to be issued by the Judicial Council.

(c) It shall not be considered the illegal practice of law:

(1) To perform legal services for or appear in court for oneself;

(2) To appear in small claims court as may otherwise be permitted by court rules;

(3) For an employee or agent of an attorney admitted to practice in Guam, to prepare documents, do research, and interview clients under the direct supervision of an attorney admitted to practice in

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Guam; provided, that the attorney shall be responsible for such acts;

(4) For a certified public accountant or tax practitioner enrolled before the Internal Revenue Service or the Department of Revenue and Taxation, to offer tax advice, tax preparation, or to represent clients before the Department of Revenue and Taxation or any tax tribunals to the extent otherwise permitted by law;

(5) To prepare income tax returns for others if licensed to do so by the Department of Revenue and Taxation;

(6) For an attorney admitted to practice in another state or territory who is associated with an attorney admitted to practice in Guam, to work on a specific legal matter; provided, that approval on a case by case basis is obtained from the Superior Court of Guam or the District Court of Guam, as the case may be;

(7) For a military lawyer to appear before military tribunals or to give advice to military personnel;

(8) For an attorney who is admitted to practice in some other state or territory of the United States, to advise or represent the government of Guam or the United States of America on legal matters;

(9) For a licensed real estate broker, surveyor, architect, or engineer, to represent others before the Territorial Land Use Commission;

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(10) For a certified public accountant to represent others before the Guam Economic Development Authority;

(11) For an employee of a licensed title or escrow company to prepare title reports and abstracts of title;

(12) For a government employee and official to give advice to others, and to appear at administrative hearings as part of such person's official duties without compensation other than government salary;

(13) For a bona fide full time employee, officer or director of a corporation to represent such corporation before a board or agency or in small claims court;

(14) For a bona fide full time employee, officer or director of a corporation to advise such corporation;

(15) For a government attorney who is employed by the government of Guam pursuant to § 9A114 of this Chapter to represent the government of Guam;

(16) To appear, at no charge to the employee, before the Civil Service Commission or other administrative body, including autonomous agencies, to represent an employee of the government of Guam in actions relating to such employee's government service, or to a grievance;

(17) (Grandfather clause) Any person who has represented another before any board or agency during the twelve (12) month period immediately preceding the effective date of this section may register with that board or agency within one hundred eighty (180) days of the effective date of this section. If the board or agency finds that the applicant has in fact legally represent others before that board or agency within the one (1) year immediately preceding the effective date of this section, and finds that the applicant had a business license in effect at the time of the representation which covered the representation, or finds that the applicant paid business privilege taxes on the fees for such representation, then the board or agency shall so certify and grant the applicant a permit to continue such representation of others. Such permit shall be effective only as to matters before that board or agency; provided, that a person may have more than one (1) such permit. A copy of any such permit shall, at the time of its issuance, be given to the Judicial Council and to the Ethics Committee of the Guam Bar Association.

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Until such rules and regulations are adopted by the Judicial Council, the definitions relating to the practice of law contained herein and in the common law definition of the practice of law shall apply.

(d) It shall be unlawful for any person to practice law in Guam unless that person is an attorney admitted to practice in Guam. Any fees collected by any person who engages in the illegal practice of law shall be returned to the client involved. Such illegal practice shall not be a crime, and any violations shall be prosecuted civilly as herein provided.

(e) The Ethics Committee of the Guam Bar Association shall investigate any allegation or evidence of illegal practice of law in Guam. A complaint shall not be necessary if it comes to the attention of the Ethics Committee of the Guam Bar Association which shall have the same powers it has when investigating complaints against Guam attorneys.

(f) When the Ethics Committee discovers that any person is illegally practicing law in Guam, it shall bring an action in the Superior Court of Guam to enjoin and restrain such illegal practice of law temporarily and permanently. If the court finds by a preponderance of the evidence that illegal practice occurred, it shall order the return to any clients of fees collected for legal services by such person, repayment of any losses which any client of such person may have suffered as a result of misconduct or malpractice by such person, and shall order the person illegally practicing law to pay costs and reasonable attorneys' fees arising from the investigation and suit.

(g) In addition to such penalties, any person who violates an order enjoining him or her from the illegal practice of law shall be punished for contempt of court, action for which may be brought by the Ethics Committee of the Guam Bar Association or by any person, and in addition to the other penalties permitted by law, shall be fined One Thousand Dollars (\$1,000) per day for each day that person practices law contrary to such order and for each day that such person holds himself or herself out as practicing law contrary to such order, as well as for the costs and reasonable attorneys' fees of any investigation and suit.

(h) The burden of proof in any proceeding alleging illegal practice of law shall be by the preponderance of the evidence, and the burden of proof shall be on the Ethics Committee or person alleging the illegal practice of law.

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(i) Any person may bring an action to enjoin and restrain, temporarily or permanently, the illegal practice of law within Guam; provided, that the Ethics Committee of the Guam Bar Association shall be named as a party respondent. The Ethics Committee shall have sixty (60) days to file an answer, claim, or other pleadings; provided, that the court can temporarily enjoin or restrain the illegal practice of law during such period. In such action, the Ethics Committee may bring any cause of action against a person who has illegally practiced law to the same extent as if it had originally brought the suit.

(j) In any suit to enjoin the illegal practice of law, disposition and discovery may be had by the Ethics Committee of the Guam Bar Association and other parties immediately upon filing of the case, and the court may accelerate the times allowed for discovery.

(k) Upon request of the Ethics Committee of the Guam Bar Association or the attorney therefor, the Attorney General of Guam may apply to the Superior Court of Guam for a search warrant to be executed by the Guam Police Department for evidence of a violation of this section, which shall be granted if the court finds probable cause exists that a violation of this section has occurred in that someone has illegally engaged in the practice of law and that evidence of such violation is located at the place to be searched.

(l) In any action for malpractice or misconduct brought against a person who has engaged in the illegal practice of law, the work performed by the person shall be held to the same quality and ethical standards as would be appropriate for the person if the person were an attorney admitted to practice in Guam.

SOURCE: Added as GC § 28064 by P.L. 20-175:1 (5/18/90). A new Item (c)(16) was added by P.L. 22-36:1 and former Item (c)(16) renumbered to (17) by the same law (9/27/93). Formerly numbered Appendix A 7 GCA § 9215, renumbered by Compiler to § 9A215. Amended by P.L. 29-002:VI:28 (May 18, 2007) the name, Gross Receipts Tax, changed to Business Privilege Tax.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.

CROSSREFERENCES: See § 9A106 of this Chapter, Unauthorized Practice of Law.

§ 9A216. When Written Fee Agreements are required for Attorneys.

(a) In representing a client, an attorney shall have a written fee agreement which is signed by the client if:

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- (1) The contemplated fee is in excess of \$500, or
- (2) An appearance is required or reasonably contemplated before any court or agency by the attorney, or
- (3) The fee is contingent.

(b) Such fee agreements shall be in clear and concise language and shall clearly spell out the general nature of the work to be done by the attorney and the financial obligation of the client to pay for such work. In uncontested matters, it shall spell out the financial obligations if the matter becomes contested. If the fee is based on an hourly rate, the hourly rate shall be stated.

(c) An attorney shall have his or her client sign such a fee agreement within forty-eight (48) hours of the time the attorney is retained unless that is impossible because the client is outside of Guam or incarcerated or otherwise unavailable, in which case a fee agreement shall be signed at the earliest possible time.

(d) Within ninety (90) days of this section becoming law, the Ethics Committee of the Guam Bar Association shall publish various model fee agreements and make the same available to Bar Association members of use or modification, but use of such model forms shall not be mandatory as long as the form used complies with this section.

(e) In the absence of a required fee agreement with the client, claims for attorneys fees incurred before a fee agreement was signed shall be unenforceable.

(f) Any attorney who is representing clients without written fee agreements on the effective date of this section shall have sixty (60) days to obtain such written fee agreements.

(g) Nothing herein shall prevent the parties from amending any fee agreement, nor shall it prevent an attorney raising his or her hourly rates upon thirty (30) days notice to the client if such right is reserved in the agreement.

(h) An attorney may withdraw from representation of his or her client when the court finds at a hearing after notice to the client that such client has failed to meet the financial obligations set out in the written fee agreement.

(i) Subsections (a), (b), (c), (e), (f), and (g) of this section shall become effective ninety (90) days after this section becomes law, and the remaining

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subsections shall go into effect on the date this section becomes law."

(j) No attorney may accept land as a fee for any legal work without the prior approval of the Superior Court and upon a finding by the Court that the fee arrangement is fair, and that the worth of the land used in calculating the amount of the fee is its fair market value. No attorney may accept a mortgage on real property to secure the payment of fees.

SOURCE: Added by P.L. 20-175:2 as GC 28065 (5/16/90). Formerly numbered Appendix A 7 GCA § 9216, renumbered by Compiler to § 9A216.

NOTE: Must be cross-referenced with the current Rules Governing Admission to the Practice of Rules and/or the current Rules for the Discipline of Attorneys to determine whether it was repealed. See **COMMENT** above.
