

CHAPTER 47
LOAN OF MONEY

- § 47101. Loan of Money.
- § 47102. Loan Repaid in Current Money.
- § 47103. Interest on Loan.
- § 47104. Interest, What.
- § 47105. Annual Rate.
- § 47106. Legal Rate of Interest.
- § 47107. Licenses for Money Lending. Books to be Kept by Money Lender.
- § 47108. Exceptions.

§ 47101. Loan of Money.

A loan of money is a contract by which one delivers a sum of money to another, and the latter agrees to return at a future time a sum equivalent to that which he borrowed. A loan for mere use is governed by Chapter 45, *Loan for Use*.

SOURCE: CC § 1912.

§ 47102. Loan Repaid in Current Money.

A borrower of money, unless there is an express contract to the contrary, must pay the amount due in such money as is current at the time when the loan becomes due, whether such money is worth more or less than the actual money lent.

SOURCE: CC § 1913.

§ 47103. Interest on Loan.

Whenever a loan of money is made, it is presumed to be made upon interest, unless it is otherwise expressly stipulated at the time in writing.

SOURCE: CC § 1914.

§ 47104. Interest, What.

Interest is the compensation allowed by law or fixed by the parties for the use, or forbearance, or detention of money.

SOURCE: CC § 1915.

§ 47105. Annual Rate.

18 GCA BUSINESS STRUCTURE & FUNCTION
CH. 47 LOAN OF MONEY

When a rate of interest is prescribed by a law or contract, without specifying the period of time by which such rate is to be calculated, it is to be deemed an annual rate.

SOURCE: CC § 1916.

§ 47106. Legal Rate of Interest.

The rate of interest upon the loan or forbearance of any money, goods or things in action, or on accounts after demand or judgment rendered in any court of the territory, shall be six percent (6%) per annum but it shall be competent for the parties to any loan or forbearance of any money, goods or things in action to contract in writing for a rate of interest not exceeding the rates of interest specified in Title 14 of this Code.

SOURCE: CC § 1916a added by P.L. 3-44, (2/3/56).

NOTE: Former Civil Code §1917 was repealed by P.L. 13-187:14 because rates of interest are now governed by the Uniform Consumer Credit Code, Title 14 of this Code. CC § 1916a referred to §1917 of the Civil Code.

§ 47107. Licenses for Money Lending. Books to be Kept by Money Lender.

(a) A license to lend money may be granted only to a bona fide resident of the Territory of Guam. Written applications for licenses must be submitted to the Director of Revenue & Taxation, stating name, nationality, place of residence and of proposed business, age, previous occupations, other present occupations, the location and value of all real estate property registered in the name of the applicant, and his own personal cash capital to be used in the money lending business. The licensed moneylender hereby is forbidden to act as an agent for lending money belonging to another, directly or indirectly. He may lend only his own money.

(b) All costs for fees for administering oath, witnessing loans or payments, and all other costs incidental to the making of a loan and the collection of interest and principal thereof, except for making out or recording a mortgage or title, shall be borne wholly by the moneylender, except when otherwise ordered by a court in cases of court action for defaulted payments.

(c) The moneylender must deliver to the borrower at the time a loan is consummated, the full amount of the stipulated loan in cash, without rebate, draw back, or other subterfuge. The discounting (advance payment) of interest is forbidden, except when the interest rate is ten percent (10% per

18 GCA BUSINESS STRUCTURE & FUNCTION
CH. 47 LOAN OF MONEY

year or less. Interest is to be paid when accrued and due, or (solely for the convenience of the borrower) a reasonably short time before due.

(d) Applicants for license to lend money must demonstrate that they can speak, read, and write the English language clearly and that they possess sufficient educational qualifications to properly conduct the business they contemplate establishing. A statement under oath, that the applicant is the sole owner of the capital to be invested and used in the loan business, shall be required. This statement shall be filed with the Director of Administration.

(e) All persons licensed to conduct the business of loaning money at interest, with or without security will, at all times, be required to maintain in legible form, and have available for authorized inspection, the following records:

(1) A cash book with double columns, on the debit side of which all payments made by borrowers on the principal and interest of loans shall be entered in separate columns provided for this purpose. Date of payment, and the name and place of residence of each payee shall be entered on the same line as the entry for amount paid. The credit side shall show the date, name, and residence of the borrower, and the amount of the loan. This cash book must be balanced at least once a month.

(2) A ledger, or loan record, in which all loans made shall be recorded, giving each separate loan a full page and serial number. Each account shall show at the top of the page the full name and place of residence of the borrower. On the debit side, a record of the loan and the conditions under which made shall be entered in brief form, giving date, amount, and period of loan; lot number or location of property mortgaged (if any); the name in which mortgaged property is registered at the time of loan; and any special agreements made. On the credit side shall be entered separately all payments of both interest and principal made by the borrower, giving dates and amounts.

(3) A receipt in duplicate, in ink or typewriting, must be prepared for every payment made by borrowers, and shall be signed by the lender or his authorized agent, and delivered at time of payment. The duplicate of each receipt shall be retained by the lender.

18 GCA BUSINESS STRUCTURE & FUNCTION
CH. 47 LOAN OF MONEY

(4) A printed notice, large enough to attract attention, and reading both in the English and Chamorro languages, "Be sure to get a receipt," shall be displayed conspicuously at the place of business of the lender.

(f) During such periods as licenses to loan money are in effect a representative of the government of Guam will be appointed by the Governor, whose duty it will be to inspect quarterly, or more frequently if necessary, the records outlined in this section; ascertain their general conditions; report any deviations from the intent of this section; and make recommendations thereon. Report will be made in writing to the Governor. Violation of any provision of this section shall be punished as a misdemeanor.

SOURCE: CC § 1924, reference to *Director of Finance* changed to *Revenue & Taxation* pursuant to P.L. 9-239, effective August 13, 1968.

§ 47108. Exceptions.

The provisions of this Chapter shall not apply to licensed pawnbrokers, as provided for in Title L of the Government Code commencing with §50001, as amended.

SOURCE: CC § 1924a. With the repeal of the Penal Code, regulation of Pawnbrokers was placed in the Government Code by P.L. 13-187:247.

NOTE: The Government Code currently contains regulations for banks and other financial institutions.

18 GCA BUSINESS STRUCTURE & FUNCTION
CH. 47 LOAN OF MONEY