

**11 GCA FINANCE & TAXATION  
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**CHAPTER 70  
GENERAL PROVISIONS**

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**§ 70101. Title.**

This Division 3 shall be known as the *Business License Law*.

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**SOURCE:** GC § 16000. This Division of Title 11 was added by P.L. 2-12 (2/17/53). All source references will be to that Public Law, except where it has been amended, added to or repealed.

**§ 70102. Purpose.**

The purpose of this Division is to provide for the licensing of businesses in the Territory of Guam in order that all necessary and reasonable control and regulation thereof may be practiced by the Government of Guam for the protection of the health, safety and morals of the people of Guam.

**SOURCE:** GC § 16001.

**COURT DECISIONS:** Finally, this Court finds that having to get an exemption in order to make a loan secured by Guam real property is simply not reasonable. When a bank gets the two licenses required under 11 GCA § 106722, it may engage in the transactions set forth in § 106727 and, if the bank qualifies, engage in transactions set forth in §§ 106728 and 106729. The business license does not include the transaction set forth in § 106730, the securing of a mortgage loan with Guam real property. Consequently, because it is not included within the scope of the license, then the foreign bank, licensed here on Guam, would still need to get an exemption under § 70130. *EIE Guam Corp., et al. V. The Long Term Credit Bank of Japan, Ltd., et al.*, 1998 Guam 6 [25].

**§ 70103. Definitions.**

For the purposes of this Division, except as otherwise specifically provided, the following words and phrases, together with all the common derivatives thereof, (i.e., verbs, plurals, gerunds, etc.) shall have the meaning prescribed in this section:

(a) *Applicant* shall mean and include any person who files formal written application in the prescribed form, for any license as herein provided, with the Licensing Division of the Department of Revenue & Taxation of the Government of Guam.

(b) *Board* shall mean and include the License Board appointed under authority of this Division.

(c) *Business* shall mean and include any activity or conduct, whether proprietary, partnership, corporate, or whatever form, engaged in, transacted, conducted, continued, done or carried on, or caused to be engaged in, transacted, conducted, continued, done or carried on, with the object of gain or economic benefit, either direct or indirect, but shall not include casual sales, personal service contracts or fund raising activities by political candidates,

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committees, parties, corporations, associations, organizations or funds. No political candidate, committee, party, corporation, association, organization or fund shall be required to register with the Department of Revenue and Taxation or be required to obtain a business license.

(d) *Endorsement* shall mean and include written evidence obtained by an applicant from the Examining Department that said applicant has fulfilled necessary qualifications and requirements prior to the obtaining of the License. It shall also, when the context so requires, mean and include the evidence of the evidence of the endorsement appearing on the face of the License.

(e) *Engaging in, transacting, conducting, continuing, doing or carrying on a business* means a regular employment which occupies the time, labor, or attention of the person on a continuing basis although one (1) act may be sufficient if circumstances show a purpose to continue, and it need not be the sole or full-time employment of the person, but may be on a part-time or periodic basis.

Without excluding other activities which may not be considered to be specifically engaging in, transacting, conducting, continuing, doing or carrying on a business, a person shall not be considered to be engaging in, transacting, conducting, continuing, doing or carrying on a business within the meaning of this Division solely by reason of carrying on in Guam any one (1) or more of the following activities:

- (1) maintaining or defending any action or suit, or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes;
- (2) holding meetings of the board of directors or shareholders, or carrying on other activities concerning internal corporate affairs;
- (3) maintaining bank accounts;
- (4) maintaining offices or agencies for the transfer, exchange and registration of the corporation's own securities, or appointing and maintaining trustees or depositaries with respect to those securities;

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- (5) effecting sales through independent contractors;
- (6) soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where those orders require acceptance outside Guam before they become binding contracts;
- (7) creating or acquiring evidences of debt or mortgages, liens or security interests in real or personal property;
- (8) securing or collecting one's own debts, or enforcing mortgages and security interests in property securing one's own debts;
- (9) owning, without more, real or personal property;
- (10) conducting an isolated transaction that is completed within ninety (90) days, and that is not one in the course of a number of repeated transactions of a like nature; and
- (11) transacting business in interstate commerce.

The list of activities in this Subsection (e) is not exhaustive.

(f) *Examining Department* shall mean that department of the Government of Guam which is by law, rule or regulation given the responsibility of examining and endorsing a class of applicants for required qualifications.

(g) *Hold himself out* means to lead others to believe by language or conduct that one has certain qualifications, training, skills, or authority which such person is willing to exercise for the benefit of others.

(h) *License* shall mean and include the permission granted by the Government of Guam, under the authority of this Division, conferring upon the licensee the right to engage in a business or to practice a trade or a profession which without such authorization and permission would be illegal; it shall also, when the context so requires, mean and include the written evidence of such permission.

(i) *License Fee* means the charge or assessment levied by law for the privilege or authority to do that which, without payment for and obtaining such privilege or authority, would be illegal under the provisions of this Division.

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(j) *License Division* shall mean that Division of the Department of Revenue & Taxation of the Government of Guam charged with the responsibility and duty of administering this Division. and *Chief* of such Division shall mean the person who is in charge of the License Division, by direction of the Director of Revenue & Taxation.

(l) *Person* means and includes any individual, firm, copartnership, joint venture, association, corporation, estate, trust, or other group or combination acting as a unit.

(m) *Public* may mean any portion of the general population of Guam and shall not mean all the people, nor very many people of a place, but so many of them as contradistinguishes them from a few.

(n) *Renewal* shall mean the continuation for the next succeeding fiscal year (July 1 to June 30) of the privilege to conduct the licensed acts except that no license shall be renewed unless application is made therefor within three months of the expiration of the last license issued.

**SOURCE:** GC § 16002. Subsection (c) amended by P.L. 17-49:8; subsection (k) repealed by P.L. 5-36 (1/27/60); subsection (n) amended by P.L. 5-55 (1/27/60). Subsections (c) and (e) amended by P.L. 27-57:5 and 6, respectively.

**NOTE:** All reference in the original to "Title" have been change to Division to conform to the style of the Guam Code Annotated.

References in the original to "Department of Finance" have been changed to Department of Revenue & Taxation pursuant to P.L. 9-239 (8/13/68).

References to the "Island Court" or "District Court" in this Division have been changed to Superior Court pursuant to P.L. 12-85 (Court Reorganization Act of 1974).

**§ 70104. Administration.**

Administration of this Division shall be vested in the Department of Revenue & Taxation and the License Division thereof; *provided*, however, that the License Division shall at no time exercise judicial discretion, but shall perform only the functions provided herein.

**SOURCE:** GC § 16003.

**§ 70105. Duties of Licensing Division.**

It shall be the duty of the License Division to perform the following functions as well as all other functions necessary for the proper administration of this Division.

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(a) On the showing of compliance with all required prerequisites, including the payment of the fee, of any applicant for a license, to issue the proper license to the applicant.

(b) To keep a complete set of records of all licenses issued, in the manner and form prescribed by the License Board and the Director of Revenue & Taxation.

(c) The Chief of the License Division shall notify the License Board of the expiration of any license within at least thirty (30) days following the date of expiration.

(d) To keep and maintain a sufficient supply of application forms and rules and regulations as approved by the License Board, and shall furnish said forms and rules and regulations to bona fide applicants, free of charge.

**SOURCE:** GC § 16004.

**§ 70106. Qualifications.**

Qualifications required for securing licenses and endorsements applicable thereto shall be promulgated as rules and regulations by the License Board, with the advice of the department of the government of Guam designated in this Division to have cognizance thereof.

**SOURCE:** GC § 16005.

**§ 70107. Rules and Regulations.**

The License Board shall draft and approve such rules and regulations as are required by this Division and shall, after such approval, hold a public hearing at such time and place as the License Board shall direct before official promulgation of the rules and regulations. The License Board shall cause to be placed in a newspaper of general circulation in Guam a single notice of such proposed public hearing not more than ten (10) nor less than five (5) days prior to the date set for the public hearing. This procedure shall apply to the amendment and repeal of rules and regulations as well as to their initial promulgation.

**SOURCE:** GC § 16008.

**§ 70108. Same: Not Retroactive.**

The rules and regulations as promulgated by the License Board as provided herein, or the amendment or repeal of such rules and

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regulations shall not be retroactive with regard to any license existing and valid at the time of their promulgation.

**SOURCE:** GC § 16007.

**§ 70109. Examination.**

Examination of the qualifications of any applicant shall be the duty and responsibility of the director of the department designated in this Division to have cognizance thereof.

**SOURCE:** GC § 16008.

**§ 70110. Prerequisites.**

Prerequisites to and qualification for the obtaining of any license hereunder shall be mandatory, whether provided by law, rule or regulation and may be changed, from time to time by the Licensing Board as it deems necessary and proper; provided, however, that in no case shall a change be deemed to be retroactive and all such prerequisites and qualifications must be within the scope of that which is provided by law.

**SOURCE:** GC § 16009.

**§ 70111. Inspections.**

It shall be the duty and responsibility of the department of the government of Guam to which this Division gives cognizance, to make periodic inspections or examinations of licensees to see that they conform at all times to the required qualifications and prerequisites.

**SOURCE:** GC § 16010.

**§ 70112. License Board.**

There is hereby created within the Government of Guam a *License Board*, to be composed of three members ex officio who shall be the Director of Revenue & Taxation, the Director of Commerce, and a law member appointed from the Department of Law by the Governor. The members shall serve without compensation, except that they may be reimbursed for necessary expenses in connection with the formal business of the Board.

**SOURCE:** GC § 16011.

**§ 70113. Review of Applications.**

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It shall be the duty of the License Board upon written request of an applicant to review any denial of an application for a license, and the Board may deny or approve the license within the terms of the law and applicable rules and regulations. The decisions of the License Board are appealable to the Superior Court of Guam.

**SOURCE:** GC § 16012.

**§ 70114. Same: Review of Order to Suspend or Revoke License.**

The License Board shall review any order to suspend or revoke a license upon application of the licensee. The Board may approve or reverse the order within the terms of the law and applicable rules and regulations governing said license. The decisions of the Board are appealable to the Superior Court of Guam.

**SOURCE:** GC § 16013.

**§ 70115. Term of License.**

All licenses and endorsements applicable thereto shall be issued on a fiscal year basis (July 1 to June 30) and, regardless of when issued, shall expire on the thirtieth (30th) day of June of the year for which issued or renewed.

**SOURCE:** GC § 16014.

**§ 70116. Apportionment of Fees.**

All original license fees shall be prorated and one-fourth ( $\frac{1}{4}$ ) of the annual fee charged for each quarter or portion of a quarter remaining in the fiscal year from the date of issuance.

**SOURCE:** GC § 16014.1. This section and §16014 were split by P.L. 5-55 (1/22/60); The combined section had been amended by P.L. 2-48.

**§ 70117. Renewal.**

A licensee may renew his license at the expiration thereof by the payment of the annual license fee and by filing with the renewal application an affidavit oath and subject to the penalties of perjury that he has continued to comply with all of the prerequisites and qualifications provided by law, rules and regulations which were certified by the proper apartments of the government of Guam in the application for is original license. The renewing licensee shall not be required to obtain the approval of the Government of Guam or any department or agency thereof regarding the application of the Zoning Law of the Territory of Guam to the licensee's business premises provided that the

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licensed business is located upon the identical premises upon which it was located on the date of the issuance of the previous license.

A licensee who fails to renew his license on or before the thirtieth (30th) day of June of each year shall be assessed a penalty of one dollar (\$1.00) per each calendar day he is delinquent, which penalty shall become part of the renewal fee. Any licensee who fails to renew his license on or before the thirty-first (31st) day of July shall be required to discontinue his business until he renews the license or be subject to an injunction issued by the Superior Court and to prosecution under § 70119. Such failure to renew while continuing the operation of the business shall constitute refusal and failure to obtain a license under the provisions of this Division.

**SOURCE:** GC § 16015; amended by P.L. 5-55 (1/22/60); and by P.L. 8-165 (7/29/66).

**§ 70118. Licenses not Transferable.**

Every license issued under this Division shall be deemed to be personal and shall be issued to the person or persons making application therefor, and may not in any circumstances be transferred to any other person except upon the forfeiture of a tenancy or upon a foreclosure of a mortgage where the original contract provides that the license is a security for the obligation, in which event the Board shall be promptly notified of any such forfeiture. Any license conditioned upon the fulfillment of any qualifications or prerequisites pertaining to the premises wherein the licensee conducts his business, trade or profession may not be transferred to another location without written application to, and written approval by the Director of Revenue & Taxation.

**SOURCE:** GC § 16016; amended by P.L. 5-128 (8/23/60).

**§ 70119. Misdemeanor.**

Any person who is required by the terms of this Division to obtain a license or licenses, and endorsements applicable thereto, and who refuses or fails to obtain such license or licenses, and endorsements, shall be guilty of a misdemeanor.

**SOURCE:** GC § 16017; amended by P.L. 13-187:122 to conform to 9 GCA, Crimes & Corrections.

**§ 70120. Suspension and Revocation of License.**

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Any person holding a license under the provisions of this Division who refuses or fails to comply with any provision of applicable regulatory statutes, rules or regulations shall be subject to the penalty of having his license either suspended for a period of time or revoked by the License Board. The suspension or revocation of any license of a person making application for any new license shall be taken into consideration by the License Board for the granting of the new license and may, in the Board's discretion, be grounds for refusal to grant a new license.

(a) The License Board shall have power to suspend or revoke a license when, after formal hearing, it finds that such business is being operated inimical to public interest. The License Board may suspend a license for a period not to exceed one (1) year on probable cause pending formal hearing and findings thereon. Neither the License Board nor the Government of Guam shall be subject to any claim or damages due to the action of the Board taken under the provisions of this Chapter. This subsection (b) shall apply to all licenses whether issued under this Chapter or in existence on the effective date hereof, notwithstanding any other provisions contained herein.

**SOURCE:** GC § 16018: subsection (a) amended by P.L. 20-25:3 (6/10/89). Subsection (a) was the second paragraph in the original law, and the Compiler has not changed the arrangement.

**§ 70121. Two or More Business Locations Operated by One Person.**

Where one (1) person operates or conducts businesses in two (2) or more locations in Guam, the person shall be required to obtain a license for each such location.

**SOURCE:** GC § 16019.

**§ 70122. Classification of Business.**

If any question of the classification of any business, conduct or activity arises pertaining to the type or class of license required under this Division, such classification shall be made by the License Board upon review of all the facts presented to it, and such classification shall be final.

**SOURCE:** GC § 16020.

**§ 70123. Combination Businesses.**

Any person who operates any business which consists of a combination of two (2) or more of the classes provided in this Division

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shall be required to take out a separate license for each such classification.

**SOURCE:** GC § 16021.

**§ 70124. Effective Date of License.**

The license required by the provisions of this Division, and all other provisions applicable thereto, shall not be retroactive, and any person who, upon the date of approval of this law, is operating any business or trade under a valid Government of Guam license may continue to do so until the expiration thereof. Upon the expiration of any license valid on the date of approval of this Division, the person holding such license shall be required to obtain a new license under the provisions of this Division.

**SOURCE:** GC § 16022.

**NOTE:** "This law" and "this act" both refer to the original Business License Law enacted in 1953.

**§ 70125. Separability.**

If any provision, Chapter, Subchapter, section, sub-section, paragraph, sentence, word or other portion of this Division is for any reason found to be invalid or inoperative, or shall be held by any court to be unconstitutional, the remainder of this Division shall nevertheless continue in full force and effect.

**SOURCE:** GC § 16023.

**§ 70126. Exemptions.**

The provision of this Division, and the license requirements thereunder, shall not apply to the following activities:

(a) Any business or trade engaged in or conducted by the Government of Guam, or the Government of the United States, or for the sole and direct benefit of or under the direct supervision of the Government of Guam.

(b) The selling or marketing by a Guam agricultural producer of his own farm produce in its natural state.

**SOURCE:** GC § 16024: repealed/reenacted by P.L. 7-21 (5/10/63).

**§ 70127. Alien Labor.**

Any person holding a license under the provisions of this Division is required to certify to the Director of Revenue and Taxation the intended

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departure of any alien working for such person at least fourteen (14) days prior to such departure date. The License Board shall have the power to suspend or revoke any license when, after formal hearing, it finds that any person has intentionally or knowingly failed to certify the intended departure of any alien labor as provided by this section.

**SOURCE:** Added by P.L. 3-60 (3/2/56).

**§ 70128. Employment Discrimination.**

Applicants for business licenses shall be required to attest to under oath, to the following:

(a) ‘I shall not fail or refuse to hire or to discharge any individual or otherwise to discrimination against any individual with respect to his compensation, terms, conditions or privileges of employment because of such individual’s race, color, religion, sex or national origin’;

(b) ‘I shall not limit, segregate or classify employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual’s race, color, religion, sex or national origin’,

**SOURCE:** GC § 16026 added by P.L. 14-72:1 .

**NOTE:** P.L. 14-72:2 added the following uncodified matter:

The oath prescribed under § 70128(a) and (b) shall be incorporated in the business license application in affidavit for subscribed and sworn to by the applicant before a notary public.

**§ 70129. Enforcement Powers.**

The License Board shall have the power to suspend or revoke any license when, after formal hearing, it determines that a licensee has intentionally or knowingly practiced employment discrimination.

**SOURCE:** GC § 16026.1 added by P.L. 14-72:4.

**§ 70130. Restriction of Activities on Persons Engaging in, Transacting, Conducting, Continuing, Doing, or Carrying on a Business Without Licenses.**

It is the policy of the government of Guam that all persons engaging in, transacting, conducting, continuing, doing, or carrying on a business have business licenses. Unless otherwise specifically exempted by law,

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no person shall engage in, transact, conduct, continue, do, or carry on a business in Guam until it obtains a business license. The requirement to obtain a business license shall be independent of and in addition to a requirement for a certificate of authority from the Director of Revenue and Taxation or other applicable regulating agency or board, pursuant to applicable Guam laws, including, but not limited to, 22 GCA §15307, 22 GCA § 15102, 18 GCA §7102 and 11 GCA §106213.

**SOURCE:** GC § 16027 added by P.L. 19-10:XI:18. Amended by P.L. 27-57:7.

**CROSS-REFERENCES:** See 11 GCA §104109 specifically regulating the bringing of actions by real estate brokers and salesmen for their compensation.

**COURT DECISIONS:** Dismissal of a complaint because Plaintiff did not have a Business License did not violate Due Process and was a valid means of enforcing a Territorial interest, that businesses obtain business licenses. *Pacific Equity & Capital Enterprises, Inc., and Segundo A. Unpingco v. Baba Corporation, et al.*, D.C. App.Div. D.C. Civ. Case No. 90-00068A, 5/11/1991.

In conclusion, because the Alice was neither the owner of the premises nor in possession of a business license at the time of the alleged breaches and had made no effort to secure a business license until well after a significant period of time had elapsed from the date of her succession to the lease in question, and there were no genuine issues of material fact, we hold that it was not error to grant Kim's motion for summary judgment. *Taijeron v. Kim*, Guam Supreme Court, 1999 Guam 16 [29].

**§ 70131. Consequences of Engaging in, Transacting, Conducting, Continuing, Doing, or Carrying on a Business Without Business License or Certificate of Authority.**

(a) Any person engaging in, transacting, conducting, continuing, doing, or carrying on a business within Guam which is otherwise required by law to have a current business license and, as may be required by all applicable laws of Guam, a certificate of authority from the Director of the Department of Revenue and Taxation, or other applicable regulating agency or board, but does not have one, shall be closed promptly by the Department of Revenue and Taxation, after a hearing pursuant to the Administrative Adjudication Law, until all required returns are filed and all taxes paid or arrangements are made to pay them. All assets of the person or corporation shall be frozen after such hearing until all required tax returns are submitted to the Department of Revenue and Taxation, all taxes are paid, or payment arrangements are made, and a valid business license is obtained.

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(b) Any person engaging in, transacting, conducting, continuing, doing, or carrying on a business on Guam without a business license and, as may be required by all applicable laws of Guam, a certificate of authority from the Director of the Department of Revenue and Taxation, or other applicable regulating agency or board, may not maintain a proceeding in any Court on Guam until it obtains a business license and, as may be required by all applicable laws of Guam, a certificate of authority to transact business on Guam.

(c) The successor to any person who transacted, engaged in, conducted, continued, carried on, or done business on Guam without a business license and, as may be required by all applicable laws of Guam, a certificate of authority from the Director of the Department of Revenue and Taxation, or other applicable regulating agency or board, and the assignee of a cause of action arising out of that business may not maintain a proceeding based upon that cause of action in any Court on Guam until the person or that person's successor obtains a business license and, as may be required by all applicable laws of Guam, a certificate of authority from the Director of the Department of Revenue and Taxation, or other applicable regulating agency or board.

(d) A Court may stay a proceeding commenced by a person, its successor, or assignee until it determines whether the person, or that person's successor, or assignee requires a business license, and, as may be required by all applicable laws of Guam, a certificate of authority from the Director of the Department of Revenue and Taxation, or other applicable regulating agency or board. If it so determines, the Court may further stay the proceeding until the person, or that person's successor, or assignee obtains the business license, and, as may be required by all applicable laws of Guam, or other applicable regulating agency or board, a certificate of authority from the Director of the Department of Revenue and Taxation, or other applicable regulating agency or board.

(e) Notwithstanding the provisions of this Section, the failure of a person to obtain a business license, and, as may be required by all applicable laws of Guam, a certificate of authority from the Director of the Department of Revenue and Taxation, or other applicable regulating agency or board, does not impair the validity of its corporate acts or prevent it from defending any proceeding in Guam..

**SOURCE:** GC § 16028 added by P.L. 19-10:XI:22. Amended by P.L. 27-57:8.

**§ 70132. Clearance Necessary that Taxes Due are Paid to Obtain Business License.**

No person may obtain or renew a business license without clearance from the Director of Revenue & Taxation that all income tax returns, business privilege tax returns and withholding tax returns which are due from that person have been filed (or an extension has been approved or granted thereon by the Director of Revenue & Taxation, which extension has not expired), and that all taxes due thereon have been paid or arrangements have been made with the Director for payment thereon and such arrangements are current.

**SOURCE:** GC § 16029 added by P.L. 19-10:XI:23. Amended by P.L. 29-002:VI:28 (May 18, 2007) the name, Gross Receipts Tax, changed to Business Privilege Tax.

**§ 70133. Reproduction; Certified Copies and Authentication: Fees.**

The fees for the reproduction of copies, certified copies and authentication for the following documents shall be as follows:

- |   |         |
|---|---------|
| (a) Copy of each business license   | \$ 3.00 |
| (b) Certificate of Existence  | \$10.00 |
| (c) Certificate of Good Standing  | \$25.00 |
| (d) Certificate of Exemption  | \$20.00 |
| (e) Fee for an authentication or certification of any documents that are filed with the General Licensing Branch                                  | \$10.00 |
| (f) Copy of each page of any other document that is filed with the General Licensing Branch in which the fee for each copy is not provided by law | \$ 1.00 |
| (g) Replacement of Corporate Certificate  | \$25.00 |
| (h) Copy of any other compliance, regulatory, enforcement, testing or study guide pamphlet.   | \$ 5.00 |

**SOURCE:** Added by P.L. 29-002:V:I:21 (May 18, 2007).

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