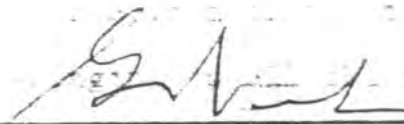


CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

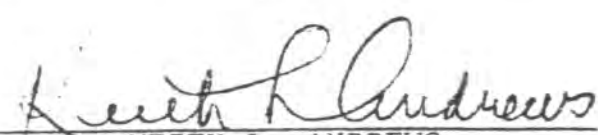
This is to certify that Bill No. 544, "An Act to add a Chapter V-A to Title XIV of the Government Code of Guam to provide for the establishment of Guam Seashore Reserve, and for other purposes", which was heretofore passed and thereafter on February 14, 1974, returned to the Legislature without the approval of the Governor was, in accordance with the Organic Act of Guam, reconsidered by the Legislature and after such reconsideration the Legislature did on the 11th day of March, 1974, agree to pass said bill notwithstanding the objections of the Governor by a vote of more than two-thirds of all the members thereof, to wit: by a vote of 17 members.


F. T. RAMIREZ
Speaker

ATTESTED:


G. M. BAMBA
Legislative Secretary

This Act was received by the Governor this 12th day
of March, 1974, at 4:30 o'clock P.M.


KEITH L. ANDREWS
Attorney General of Guam

Public Law

12-108

Bill No. 544

Introduced by

P. J. Bordallo
R. F. Taitano
F. G. Lujan
F. R. Santos
G. R. Salas
G. M. Bamba

AN ACT TO ADD A CHAPTER V-A TO TITLE XIV
OF THE GOVERNMENT CODE OF GUAM TO PROVIDE
FOR THE ESTABLISHMENT OF GUAM SEASHORE
RESERVE, AND FOR OTHER PURPOSES.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. Chapter V-A is hereby added to Title XIV of
3 the Government Code of Guam to read as follows:

4 "CHAPTER V-A

5 Section 13410. This Chapter may be cited as the
6 Guam Territorial Seashore Protection Act of 1974.

7 Section 13411. The people of the territory of Guam
8 hereby find and declare that the Guam Territorial Seashore
9 Reserve is a distinct and valuable natural resource
10 belonging to all the people of Guam and existing as a
11 delicately balanced ecosystem; that the permanent
12 protection of the natural, scenic, and historical
13 resources of the seashore reserve is a paramount concern
14 to the present and future residents of this island; that
15 in order to promote the public safety, health, and
16 welfare, and to protect public and private property,
17 wildlife, marinelife, and other ocean resources, and
18 the natural environment, it is necessary to preserve the
19 the ecological balance of the seashore reserve and
20 prevent its deterioration and destruction; that it is
21 the policy of this territory to preserve and protect the
22 resources of the seashore reserve for the enjoyment of
23 the current and succeeding generations, and that to
24 protect the seashore reserve, it is necessary:

1 (a) To study the seashore reserve to determine
2 the ecological planning principles and assumptions
3 needed to ensure conservation of its resources;

4 (b) To prepare, based upon such study and in full
5 consultation with all affected governmental agencies
6 and departments, private interests and the general
7 public, a comprehensive, coordinated, enforceable
8 plan for the orderly, long-range conservation, manage-
9 ment and development of the seashore reserve;

10 (c) To ensure that any development which occurs
11 in the seashore reserve during the study and planning
12 period will be consistent with the objectives of this
13 Chapter;

14 (d) That the Board of Directors, Territorial Sea-
15 shore Protection Commission is hereby charged with the
16 responsibility of implementing the provisions of this
17 Chapter.

18 Section 13412. Definitions. (a) 'Commission' means
19 Guam Territorial Seashore Protection Commission.

20 (b) 'Board' means the Board of Directors of the
21 Commission.

22 (c) 'Seashore reserve' means that land and water
23 area of the territory of Guam extending seaward to
24 the ten fathom contour, including all islands within
25 the territory's jurisdiction, and extending inland
26 from the mean high water line for a distance on a
27 horizontal plane of the hundred meters.

28 (d) 'Development' means, on land, in or under
29 water, the placement or erection of any solid material
30 or structure; discharge or disposal of any dredged
31 material or of any gaseous, liquid, solid, or thermal
32 waste; grading, removing, dredging, mining, or extraction

1 of any materials; change in the density or intensity of
2 use of land, including, but not limited to, subdivision
3 of land and any other division of land including lot
4 splits; change in the intensity of use of water, ecology
5 related thereto, or of access thereto; construction or
6 reconstruction, demolition, or alteration of the size
7 of any structure, including any facility of any private,
8 public, or municipal utility, and the removal of major
9 vegetation.

10 (e) 'Improved residential property' means a
11 detached, noncommercial residential dwelling, the con-
12 struction of which was begun before September 1, 1972,
13 together with so much of the land on which the dwelling
14 is situated, the said land being in the same ownership
15 as the dwelling, as the Commission shall designate to
16 be reasonably necessary for the enjoyment of the dwelling
17 for the sole purpose of noncommercial residential use,
18 together with any structures accessory to the dwelling
19 which are situated on the land so designated.

20 (f) 'Person' includes any individual, organization,
21 partnership, and corporation, including any utility and any
22 agency of federal, territorial, and local government.

23 (g) 'Plan' means the Guam Seashore Reserve Plan.

24 (h) 'Sea' means the Pacific Ocean or the Philippine
25 Sea.

26 Section 13413. Commission creation, membership and
27 compensation. (a) The Commission is hereby created and
28 shall consist of seven (7) members to be appointed by the
29 Governor with the advice and consent of the Legislature.

30 (b) Commission members will be appointed within
31 sixty (60) days after the enactment of this Chapter.
32 Members shall hold office for a term of two (2) years,

1 and may be reappointed for one (1) additional term.

2 (c) Commission members shall serve without
3 compensation except that each member shall be paid
4 a per diem of Fifty Dollars (\$50) for each day's
5 attendance at a meeting of the Commission. Each
6 member shall also be allowed actual expenses incurred
7 in the discharge of his duties.

8 Section 13414. Conflict of interest. (a) No member
9 of the Commission or employee of the Commission shall
10 participate, in any official capacity whatsoever, in
11 any proceeding, hearing, application, request for ruling
12 or other official determination, judicial or otherwise,
13 in which any of the following has a financial interest:
14 the member or employee himself; his spouse; his child;
15 his partner; any organization in which he is then serving
16 or has, within two (2) years prior to his selection or
17 appointment to or employment by the Commission, served
18 in the capacity of officer, director, trustee, partner,
19 employer or employee; any organization within which he is
20 negotiating for or has any arrangement or understanding
21 concerning prospective partnership or employment.

22 (b) In any case within the coverage of this section,
23 the prohibitions herein contained shall not apply if the
24 person concerned advises the Board in advance of the nature
25 and circumstances thereof, including full public
26 disclosure of the facts which may potentially give rise
27 to a violation of this article, and obtains from the
28 Board a written determination that the contemplated action
29 will not adversely affect the integrity of the Commission.
30 Any such determination shall require the affirmative
31 vote of two-thirds of the members of the Board.

1 (c) Any person who violates any provision of this
2 section shall, upon conviction, and for each such
3 offense, be subject to a fine of not more than Ten
4 Thousand Dollars (\$10,000) or imprisonment for not more
5 than two (2) years, or both.

6 Section 13415. Powers and duties. The Board may:

7 (a) Accept grants, contributions, and appropriations;

8 (b) Employ and fix the compensation, in accordance
9 with law, of such professional, clerical and other
10 assistants as may be necessary;

11 (c) (1) Through coordination and assistance with
12 other government departments and agencies, acquire
13 lands, waters, and interests therein with the
14 boundaries of the seashore reserve, by donation,
15 purchase with donated or appropriated funds, by
16 exchange for government land, or transfer. All
17 property owned by the territory of Guam within the
18 seashore reserve is hereby dedicated for the pur-
19 pose of this Chapter.

20 (2) With respect to improved residential
21 property acquired for the purposes of this Chapter,
22 which is beneficially owned by a natural person and
23 which the Board determines can be continued in that use
24 for a limited period of time without undue inter-
25 ference with the administration, development, or
26 public use of the coastal reserve, the owner there-
27 of may on the date of its acquisition by the
28 Commission retain a right of use and occupancy of
29 the property for noncommercial residential purposes
30 for a term, as the owner may elect, ending either
31 (a) at the death of the owner or his spouse, which-
32 ever occurs later, or (b) not more than twenty-five

1 (25) years from the date of acquisition. Any right
2 so retained may during its existence be transferred
3 or assigned. The Commission shall have paid to
4 such owner the fair market value of the property
5 on the date of such acquisition, less the fair
6 market value on such date of the right retained by
7 the owner.

8 (3) The Board may terminate a right of use
9 and occupancy retained pursuant to this subsection
10 upon a determination that such use and occupancy
11 is being exercised in a manner not consistent with
12 the purposes of this Chapter, and upon tender to
13 the holder of the right an amount equal to the fair
14 market value of that portion of the right which
15 remains unexpired on the date of termination;

16 (d) Contract for any professional services if such
17 work or services cannot satisfactorily be performed
18 by its employees;

19 (e) Be sued and sue to obtain any remedy to re-
20 strain violations of this Chapter. Upon the request
21 of the Commission, the Attorney General shall provide
22 necessary legal representation;

23 (f) Adopt any regulations or take any action it
24 deems reasonable and necessary to carry out the pro-
25 visions of this Chapter, but no regulations shall be
26 adopted without a prior public hearing.

27 Section 13416. Commission responsibilities. The
28 Commission shall:

29 (a) Elect a chairman.

30 (b) Appoint an Administrator who shall not be a
31 member of the Commission and who shall have the respon-
32 sibility for the administration of this Act under the

1 supervision of the Commission.

2 (c) Prepare, adopt and submit to the Legislature
3 for implementation the Guam Seashore Reserve Plan.

4 (1) The plan shall be based on detailed
5 studies of all the factors that significantly
6 affect the seashore reserve.

7 (2) The plan shall be consistent with all of
8 the following objectives:

9 (a) The maintenance, restoration, and
10 enhancement of the overall quality of the
11 seashore reserve environment, including, but
12 not limited to, its amenities and aesthetic
13 values.

14 (b) The continued existence of optimum
15 populations of all species of living organism.

16 (c) The orderly, balanced utilization
17 and preservation, consistent with sound con-
18 servation principles, of all living and non-
19 living seashore reserve resources.

20 (d) Avoidance of irreversible and irre-
21 trievable commitments of seashore reserve
22 resources.

23 (e) Public access for maximum visual
24 and physical use and enjoyment of the seashore
25 reserve by the public.

26 (3) The plan shall consist of such maps,
27 text and statements of policies and objectives as
28 the Commission determines are necessary.

29 (4) The plan shall contain at least the
30 following specific components:

31 (a) A precise, comprehensive definition
32 of the public interest in the seashore reserve.

1 (b) Ecological planning principles and
2 assumptions to be used in determining the
3 suitability and extent of allowable develop-
4 ment.

5 (c) A component which includes the
6 following elements:

7 (1) A land-use element.

8 (2) A conservation for the preservation
9 and management of the scenic and other
10 natural resources of the seashore reserve.

11 (3) A public access for maximum visual
12 and physical use and enjoyment of the
13 coastal reserve by the public.

14 (4) A recreation element.

15 (5) A population element for the
16 establishment of maximum desirable popula-
17 tion densities.

18 (6) An educational or scientific use
19 element.

20 (d) Reservations of land or water in the
21 seashore reserve for certain uses, or the pro-
22 hibition of certain uses in specific areas.

23 (e) Recommendations for the governmental
24 policies and powers required to implement the
25 planning including the organization and authority
26 of the governmental agency or agencies which
27 should assume permanent responsibility for its
28 implementation.

29 (d) Publish objectives, guidelines, and criteria
30 for the collection of data, the conduct of studies,
31 and the preparation of recommendations for the
32 plan within six (6) months after its first meeting.

1 (e) Prepare its definitive conclusions and
2 recommendations, including recommendations for areas
3 that should be reserved for specific uses or within
4 which specific uses should be prohibited, which it
5 shall, after public hearing, adopt and submit to the
6 Legislature no later than April, 1974.

7 (f) On or before December 1, 1975, adopt the
8 coastal reserve plan and submit it to the Legislature
9 for its adoption and implementation.

10 Section 13417. Interim permit control.

11 (a) General provisions.

12 (1) On or after March 1, 1974 any person
13 wishing to perform any development within the sea-
14 shore reserve shall obtain a permit authorizing
15 such development from the Commission, and, if
16 required by law, from any other governmental
17 department or agency. No permit shall be issued
18 without the affirmative vote of a majority of
19 the Board members.

20 (2) No permit shall be issued unless the
21 Board has first found:

22 (a) That the development will not have
23 any substantial adverse environmental or eco-
24 logical effect, and

25 (b) That the development is consistent
26 with the purpose and objectives of this
27 Chapter.

28 The applicant shall have the burden of
29 proof on all issues.

30 (3) All permits shall be subject to reason-
31 able terms and conditions in order to ensure that:

1 (a) Access to beaches, recreation and
2 historical areas, and natural reserves is in-
3 creased to the maximum extent possible by
4 appropriate dedication.

5 (b) There is no substantial interference
6 with or detracton from the line of sight
7 toward the sea from the territorial highway
8 nearest the coast.

9 (c) Adequate and properly located public
10 recreation areas and wildlife preserves are
11 reserved.

12 (d) Provisions are made for solid and
13 liquid waste treatment, disposition, and
14 management which will minimize adverse effects
15 upon coastal reserve resources.

16 (e) Alterations to existing land forms
17 and vegetation, and construction of
18 structures shall cause minimum danger of
19 floods, landslides, erosion or siltation.

20 (4) If prior to the effective date of this
21 Chapter, a building permit has been issued, no
22 person who has obtained a vested right thereunder
23 shall be required to secure a permit under this
24 section, provided that no substantial changes may
25 be made in any such development, except in accor-
26 dance with the provisions of this Chapter. Any
27 such person shall be deemed to have such vested
28 rights if, prior to April 1, 1973 he has in good
29 faith and in reliance upon the building permit
30 diligently commenced construction and performed
31 substantial work and materials necessary thereof.

32 (5) Notwithstanding any provision in this
33 section to the contrary, no permit shall be

1 required for the following types of development:

2 (a) Repairs and improvements not in
3 excess of Seven Thousand Five Hundred Dollars
4 (\$7,500) to existing single-family resi-
5 dences; provided that the Agency shall
6 specify by regulation those classes of
7 development which involve a risk of adverse
8 environmental effect and may require that
9 a permit be obtained.

10 (b) Maintenance dredging of existing
11 navigation channels or moving dredged
12 material from such channels to a disposal
13 area outside the coastal reserve, pursuant
14 to a permit from the United States Army Corps
15 of Engineers.

16 (b) Permit procedure.

17 (1) The Board shall prescribe the procedures
18 for permit applications and may require a reasonable
19 filing fee and the reimbursement of expenses.

20 (2) The Board shall give written public hearing.
21 Such hearing shall be set no less than twenty-one (21)
22 nor more than ninety (90) days after the date on
23 which the application is filed.

24 (3) The Board shall act upon an application for
25 permit within sixty (60) days after the conclusion
26 of the hearing.

27 (4) Any person including an applicant for a
28 permit, aggrieved by the decision or action of the
29 Board shall have a right to judicial review of
30 such decision or action by filing a petition for a
31 writ of mandamus, pursuant to Section 1084 et. sec.
32 of Civil Procedure Code of Guam within sixty (60)

1 days after such decision or action is made.

2 (5) Any person may maintain an action for
3 declaratory and equitable relief to restrain viola-
4 tion of this Chapter. No bond shall be required
5 for an action under this subsection.

6 (6) Any person may maintain an action for the
7 recovery of civil penalties provided in Section
8 13418.

9 (7) The provisions of this section shall be in
10 addition to any other remedies available at law.

11 (8) Any person who prevails in a civil action
12 brought to enjoin a violation of this Chapter or to
13 recover civil penalties shall be awarded his costs,
14 including reasonable attorneys fees.

15 Section 13418. Penalties. (a) Any person who violates
16 any provisions of this Chapter shall be subject to a civil
17 fine not to exceed Ten Thousand Dollars (\$10,000).

18 (b) In addition to any other penalties, any person
19 who performs any development in violation of this Chapter
20 shall be subject to a civil fine not to exceed Five Hundred
21 Dollars (\$500) per day for each day in which such violation
22 persists.

23 Section 13419. Severability. If any provision of this
24 Chapter or the application thereof to any person or
25 circumstances is held invlaid, such invalidity shall not
26 affect other provisions or applications of the Chapter
27 which can be given effect without the invalid provision
28 or application, and to this end the provisions of this
29 Act are severable.

30 Section 13420. Authorization for appropriation. There
31 are hereby authorized to be appropriated such sums as may
32 be necessary to carry out the purposes of this Chapter."