

*Amended,
see final copy*

TWELFTH GUAM LEGISLATURE
1974 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 595, "An Act to repeal and reenact Chapter XIII, Title XIV of the Government Code of Guam relative to the management and protection of historical objects and sites", was on the 17th day of April, 1974, duly and regularly passed.

F. T. Ramirez

F. T. RAMIREZ
Speaker

ATTESTED:

G. M. Bamba

G. M. BAMBA
Legislative Secretary

This Act was received by the Governor this 26th day
of April, 1974 at 3:40 o'clock 0 .M.

75 KEITH L. ANDREWS

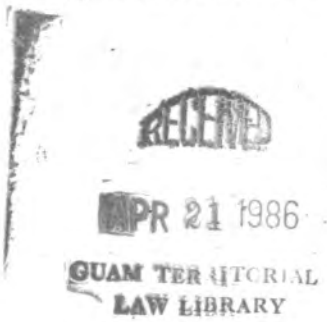
KEITH L. ANDREWS
Attorney General of Guam

APPROVED:

151

CARLOS G. CAMACHO
Governor of Guam

DATED: May 3, 1974



Public Law
12-126

TWELFTH GUAM LEGISLATURE
1973 (FIRST) Regular Session

Bill No. 595
Substitute Bill by
Committee on Resources,
Development & Agriculture

Introduced by P. J. Bordallo

AN ACT TO REPEAL AND REENACT CHAPTER
XIII, TITLE XIV OF THE GOVERNMENT CODE
OF GUAM RELATIVE TO THE MANAGEMENT AND
PROTECTION OF HISTORICAL OBJECTS AND
SITES.

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

2 Section 1. Chapter XIII, Title XIV of the Government Code
3 of Guam (Guam Historic Site Commission) is hereby repealed and
4 reenacted to read as follows:

5 "CHAPTER XIII

6 Historical Objects and Sites

7 Part I. Generally

8 Section 13985. Purpose. Whereas the Legislature has
9 determined that the historic, archaeological, architectural,
10 and cultural heritage of Guam is among her most important
11 environmental assets and furthermore that the rapid social
12 and economic development of contemporary society threatens
13 to destroy the remaining vestiges of this Spanish-Chamorro
14 heritage, it is declared to be the public policy and in the
15 public interest of this territory to engage in a compre-
16 hensive program of historic preservation, undertaken at
17 all levels of the government of this territory, and to
18 promote the use and conservation of such property for
19 education, inspiration, pleasure, and enrichment of the
20 residents of this territory.

21 Section 13985.1. Definitions. When used in this
22 Chapter 'department' means the Department of Commerce. As
23 used in this part:

1 (1) 'Historic preservation' means the research,
2 protection, restoration, and rehabilitation of sites,
3 buildings, structures, and objects significant in the
4 history, architecture, archaeology, or culture of Guam.

5 (2) 'Historic property' means any building, structure,
6 object, area, or site that is significant in the history,
7 architecture, archaeology, or culture of Guam or the nation.

8 Section 13985.2. Historic preservation and restora-
9 tion. The department in cooperation with the Central
10 Planning Council shall establish a comprehensive program
11 for historic preservation, restoration, and presentation,
12 which shall include but not be limited to the following:

13 (1) Plans to acquire, restore, and preserve historic
14 areas, buildings, and sites significant to Guam's past;

15 (2) Establish and maintain the Guam Register of
16 Historic Places;

17 (3) Establish regulations on the uses of such areas;

18 (4) Develop a territory wide survey of historic areas,
19 buildings, and sites with a phased preservation and
20 restoration development plan and accompanying budget and
21 land use recommendations;

22 (5) Provide for matching grants-in-aid to private
23 agencies for projects which will fulfill the purposes of
24 this Chapter;

25 (6) Seek assistance for the territorial historic
26 preservation and restoration program by applying for
27 technical assistance and funds from the Federal government
28 and private agencies and foundations for the purposes of
29 this Chapter;

30 (7) Employ sufficient professional and technical
31 staff for the purposes of this Chapter;

1 (8) Advise and cooperate with other public and private
2 agencies engaged in similar work;

3 (9) Submit an annual report and budget to the Governor
4 and the Legislature by February 1 of each year, with
5 recommendations for programs of historic preservation and
6 restoration.

7 Section 13985.3. Administration. All territorial
8 projects and programs relating to historic preservation
9 and restoration shall come under the authority of the
10 Department.

11 Section 13985.4. Acquisitions and gifts. For the
12 purpose of protecting or preserving any historic property,
13 the Department may acquire, preserve, restore, hold, main-
14 tain, operate, or dispose of such properties, together with
15 such adjacent or associated lands as may be necessary
16 for their protection, preservation, maintenance, or
17 operation. Such property may be real or personal in nature,
18 and in the case of real property, the acquisition may
19 include the fee or any lesser interest therein. Property
20 may be acquired by gift, grant, bequest, devise, lease,
21 purchase, condemnation, or otherwise. Property may be
22 acquired by the Department, using such funds as may be
23 appropriated for such purpose.

24 ~~also~~ The Department may receive gifts and grants from
25 public and private sources to be used for the purposes of
26 this Chapter.

27 Section 13985.5. Condemnation. In the event that a
28 property which has been found by the Department to be
29 important for public ownership or assistance is in danger
30 of being sold, used, or neglected to such an extent that

1 its historical or cultural importance will be destroyed
2 or seriously impaired, or that the property is otherwise
3 in danger of destruction or serious impairment, the
4 Department in cooperation with the Department of Land
5 Management may acquire the historical property or any
6 interest therein by condemnation under the laws of this
7 territory. All condemnation proceedings shall be instituted
8 and prosecuted in the name of the territory.

9 Section 13985.6. Interest acquired. In the case of
10 real property, the interest acquired shall be limited to
11 that estate, agency, interest, or term deemed by the
12 Department to be reasonably necessary for the continued
13 protection or preservation of the property. The Department
14 may acquire the fee simple title, but where it finds that
15 a lesser interest, including any development right,
16 negative or affirmative easement in gross, or appurtenant
17 covenant, lease, or other contractual right of or to
18 any real property, to be the most practical and economical
19 method of protecting and preserving historical property,
20 the lesser interest may be acquired.

21 Section 13985.7. Operation of properties. Any
22 historic property acquired, whether in fee or otherwise,
23 may be used, maintained, improved, restored, or operated
24 by the Department for any public purpose within its powers
25 and not inconsistent with the purpose of the continued
26 preservation of the property. Such historic property shall
27 not be subject to condemnation unless such method of
28 acquisition is first approved by the Governor.

29 Section 13985.8. Conveyance of properties. In appro-
30 priate cases, the Department of Land Management with the
31 concurrence of the Department may acquire or dispose of the

1 fee or lesser interest to any historic property, including
2 adjacent and associated lands, for the specific purpose of
3 conveying or leasing the property back to its original
4 owner or to any such other person, firm, association,
5 corporation, or other organization under such covenants,
6 deed restrictions, lease, or other contractual arrangements
7 as will limit the future use of the property in such a
8 way as to insure its preservation. In all cases where
9 property is conveyed, it shall be subjected by covenant
10 or otherwise to such rights of access, public visitation,
11 and other conditions or restrictions of operation, main-
12 tenance, restoration, and repair as the Department may
13 prescribe, or to such conditions as may be agreed upon
14 between the Department and the grantee or lessee to
15 accomplish the purposes of this section.

16 Section 13985.9. Contracts. The Department may enter
17 into and carry out contracts with the Federal government
18 or any agency thereof under which the Federal government
19 or agency grants financial or other assistance to the
20 Department to further the purposes of this Chapter. The
21 Department may agree to and comply with any reasonable
22 conditions not inconsistent with territorial law which
23 are imposed on such grants. Such grant funds or other
24 assistance may be accepted from the Federal government
25 or agency and expended whether or not pursuant to a con-
26 tract. The Department may further enter into and carry
27 out contracts with any private party to further the
28 purpose of this Chapter.

29 Section 13985.10. Entry upon private land. The
30 Department is authorized to enter, solely in performance of
31 its official duties and only at reasonable times, upon

2 that no member, employee or agent of the Department may
3 enter any private building or structure without the express
4 consent of the owner or occupant thereof.

5 Section 13985.11. Excavation and removal of prehistoric
6 and historic remains or objects on private lands.

7 (a) Before any prehistoric remains or objects are
8 excavated or removed from private lands by the Department,
9 the Department or its designated representatives may, for
10 the purpose of examining the remains or objects, enter upon
11 the land and make investigations. The entry shall not
12 constitute a cause of action in favor of the owner of
13 the land, except for damages resulting from wilfull acts
14 or negligence on the part of the Department or its desig-
15 nated representatives.

16 (b) Removal of any prehistoric or historic remains
17 or objects from private lands shall be made in the presence
18 of the owner as witness. Whenever any prehistoric or
19 historic remains or objects are excavated or removed from
20 private lands by the Department or its designated representa-
21 tives, the owner of such lands shall be compensated for
22 the loss of such remains or objects at a sum mutually
23 agreed upon by the Department and the owner, or if no
24 agreement is reached, the amount of compensation shall be
25 determined by trial in the Superior Court and measured by
26 the fair market value of such remains, assessed as of the
27 date of its removal by the Department or its designated
28 representatives, and established by the testimony of experts
29 qualified in the appraisal of such remains or objects.

30 Section 13985.12. Court actions. Where any violation
31 of this Chapter occurs, or is likely to occur, which will

1 result in unauthorized or improper demolition, alteration,
2 or transfer of historic property, the Attorney General, any
3 agency of the territory any person, partnership, corpora-
4 tion, association, organization, or other legal entity may
5 maintain an action in the Superior Court for declaratory and
6 equitable relief against the territory, any person, partner-
7 ship, corporation, association, organization, or other legal
8 entity for the protection of a historic property and the
9 public trust therein. Any party who prevails in an action
10 brought under the provisions of this section shall be
11 awarded his costs, including reasonable attorney fees.

12 Section 13985.13. Guam Museum as a depository for
13 certain specimens and objects. Any specimen and object of
14 natural history and of botanical, ethnological, or
15 archaeological value or interest, and any book, treatise,
16 or pamphlet relating to natural history, botany, ethnology,
17 or archaeology now in the possession of the University
18 of Guam, or any territorial department, bureau, or board,
19 or which may hereafter come into the possession of the
20 university or the department, bureau, or board, if and
21 when the same is no longer needed for scientific investiga-
22 tion, for study, or for any other purpose by the university
23 or the department, bureau, or board may, at the request of
24 the museum be transferred and delivered by and with the
25 consent of such department, bureau, or board having
26 possession of to the museum or exchanged with the
27 museum, and whereupon, in any such case, the title
28 thereto shall become vested in the museum, provided, that
29 the specimens and objects so transferred to the museum are
30 made available at all reasonable times by the museum for
31 study and examination by the officials of the university

1 or such department, bureau, or board.

2 Section 13985.14. Designation of historic sites. The
3 Department shall designate particular places as places of
4 historic interest, and take such action, including the
5 erection of signs or markers, as may be appropriate for
6 public recognition and appreciation of such sites.

7 PART II. Conservation of Archaeological Resources

8 Section 13985.15. Declaration of legislative intent.
9 The Legislature declares that the public has an interest
10 in the preservation and protection of the territory's
11 archaeological resources; that the public has a right to the
12 knowledge to be derived and gained from a scientific study
13 of these resources, and that therefore it is the purpose
14 of this part to provide that activities for the preserva-
15 tion, excavation, study, and exhibition of the territory's
16 archaeological resources be undertaken in a coordinated and
17 organized manner for the general welfare of the public as
18 a whole.

19 Section 13985.16. Definitions. As used in this part:

20 (1) 'Field investigation' means the study of the
21 traces of human culture at any land or water site by means
22 of surveying, digging, sampling, excavating, or removing
23 surface or subsurface objects, or going on a site with
24 that intent.

25 (2) 'Site' means any aboriginal mound, homesite,
26 earthwork, village location, burial ground, historic or
27 prehistoric ruin, quarry, cave, or other location which
28 is or may be the source of important archaeological data.

29 (3) 'Specimens' mean all relics, artifacts, remains,
30 objects, or any other evidence of a historical, prehistori-
31 cal, archaeological, or anthropological nature, which may

1 be found on or below the surface of the earth, and which
2 have scientific or historic value as objects of antiquity,
3 as aboriginal relics or as archaeological samples.

4 Section 13985.17. Archaeological resources on government
5 land. The territory reserves to itself the exclusive right
6 and privilege of field investigation on sites owned or
7 controlled by the territory, its agencies, departments, or
8 institutions in order to protect and preserve archaeological
9 and scientific information and objects. All new information
10 and objects deriving from government lands shall remain
11 the property of the territory and be utilized for scientific
12 or public educational purposes.

13 Section 13985.18. Archaeological investigation, record-
14 ing, and salvage; appropriations. Whenever any public
15 construction or improvement of any nature whatsoever is
16 undertaken by any government agency on lands which are
17 controlled or owned by the territory and which are sites
18 of historic or prehistoric interest and value, or locations
19 of prehistoric or historic remains, one per cent of the
20 appropriation for such public construction or improvement,
21 or so much thereof as may be necessary, shall be expended
22 by the department for the archaeological investigation,
23 recording, and salvage of such sites or remains when it
24 is deemed necessary by the department.

25 Section 13985.19. Prehistoric and historic sites and
26 remains.

27 (a) The Department shall locate, identify, and
28 preserve in the Guam Register of Historic Places information
29 regarding prehistoric and historic sites, locations, and
30 remains. The Department of Land Management shall clearly
31 designate on its records and cadastral maps of the

1 territory, the location of all prehistoric and historic
2 sites, or locations and remains.

3 (b) Before any public construction or improvement of
4 any nature whatsoever is undertaken by the territory, or
5 any governmental agency or officer, the head of such
6 agency or such officer shall first examine the Department's
7 records and cadastral map of the area to be affected by
8 such public construction or improvement to determine
9 whether any site listed upon the Guam Register of Historic
10 Places is present. If so designated, the proposed public
11 construction or improvement shall not be commenced, or,
12 in the event it has already begun, continued, until the
13 head of such agency or such other officer shall have advised
14 the Department of the proposed public construction or
15 improvement and shall have secured the concurrence of the
16 Department or, as hereafter provided, shall have secured
17 the written approval of the Governor.

18 If the concurrence of the Department is not obtained
19 within ninety days after the filing of a request therefor
20 with the Department or after the filing of a notice of
21 objections by the Department with the agency or officer
22 seeking to proceed with any project, such agency or
23 officer may apply to the Governor for permission to proceed
24 notwithstanding the nonconcurrence of the Department and
25 the Governor may take such action as he deems best in
26 overruling or sustaining the Department.

27 (c) Before any construction, alteration, or improve-
28 ment of any nature whatsoever is undertaken or commenced
29 on a designated private prehistoric or historic site listed
30 on the Guam Register of Historic Places by any person, he
31 shall give to the Department three (3) months notice of

1 intention to construct, alter, or improve the site.

2 After the expiration of the three-month notification
3 period, the Department shall either commence condemnation
4 proceedings for the purchase of the site or remains,
5 permit the owner to proceed with his construction, altera-
6 tion, or improvement, or undertake or permit the recording
7 and salvaging of any historical information deemed necessary
8 to preserve Spanish-Chamorro history. by any qualified
9 agency for this purpose.

10 Any person who violates the provisions of the first
11 paragraph of this subsection shall be fined not more than
12 One Thousand Dollars (\$1,000) or imprisoned not more than
13 ninety (90) days or both.

14 (d) Inclusion of any historic site structure,
15 building or object on the Guam Register of Historic Places
16 shall be by the majority affirmative vote of the Guam
17 Review Board for Historic Preservation.

18 Section 13985.20. Permits to examine ruins, excavate,
19 and gather objects on public lands. Permits for the examina-
20 tion of ruins, excavation of archaeological sites, and the
21 gathering of objects of antiquity upon lands owned or con-
22 trolled by the territory may be granted by the Department
23 to persons or institutions which they deem properly quali-
24 fied to conduct such examination, excavation, or gathering,
25 subject to such rules and regulations as the Department
26 may prescribe; provided, that the examinations, excavations,
27 and gatherings are undertaken for the benefit of public
28 museums, universities, colleges, or other recognized public
29 scientific or educational institutions, with a view to
30 increasing the knowledge of such objects and that the
31 gatherings may be made for permanent preservation in

1 public museums if so deemed by the Department.

2 Section 13985.21. Monuments: reservation of land;
3 relinquishment of private claims. Upon the recommendation
4 of the Department, the Governor may declare by executive
5 order historic landmarks, historic and prehistoric
6 structures, and other objects of historic or scientific
7 interest that are situated upon the lands owned or con-
8 trolled by the territory to be territorial monuments and
9 may reserve as a part thereof parcels of land the limits
10 of which in all cases shall be confined to the smallest
11 area compatible with the proper care and management of the
12 objects to be protected. When such objects are situated
13 upon a tract covered by a bona fide unperfected claim or
14 held in private ownership, the tract, or so much thereof
15 as may be necessary for the proper care and management of
16 the object, may be relinquished to the territory, and the
17 Governor is authorized to accept the relinquishment of such
18 tracts on behalf of the territory.

19 Section 13985.22. Excavation and removal of prehistoric
20 and historic remains on private lands. Before any pre-
21 historic or historic remains are excavated or removed from
22 private lands by the Department, the department or its
23 designated investigators shall first secure the written
24 approval of the owner of such lands. Whenever the value
25 of the private prehistoric or historic site is diminished
26 by the excavation or removal of prehistoric or historic
27 remains by the Department, the owner of the site, shall be
28 compensated for the loss, at a monetary sum mutually
29 agreed upon by the Department and the owner or at a monetary
30 sum set by the court.

31 Section 13985.23. Cooperation of other governmental

1 units. All agencies, departments, institutions, and
2 commissions, shall cooperate fully with the Department
3 in the preservation, protection, excavation, and evaluation
4 of specimens and sites and to that end:

5 (1) When any agency finds or is made aware by an
6 appropriate historical or archaeological authority that its
7 operation in connection with any territory, territory
8 assisted, territory licensed, or contracted project, acti-
9 vity, or program adversely affects or may adversely
10 affect scientific, historical, or archaeological data, such
11 agency shall notify the Department and shall provide the
12 Department with appropriate information concerning the
13 project, program, or activity. The provisions of this
14 section shall be made known to contractors by the
15 territorial agencies doing the contracting.

16 (2) The Department, upon notification or determina-
17 tion that scientific, historical, or archaeological data
18 including relics and specimens, is or may be adversely
19 affected, shall, after reasonable notice to the responsible
20 agency, conduct or cause to be conducted a survey and
21 other investigations to recover and preserve or otherwise
22 protect such data, including analysis and publication,
23 which in its opinion should be recovered in the public
24 interest.

25 (3) The Department shall initiate actions within
26 sixty (60) days of notification under Paragraph (1) and
27 within such time as agreed upon in other cases. The
28 responsible agency is authorized and directed to expend
29 agency funds for the purpose of recovering such data,
30 including analysis and publications, and such costs
31 shall be included as part of the contractor's costs if
32 the adverse affect is caused by work being done under

1 contract to a territorial agency.

2 Section 13985.24. Field investigations on privately
3 owned lands. It is the declared intention of the Legislature
4 that field investigations on privately owned lands should
5 be discouraged except in accordance with both the
6 provisions and spirit of this Chapter; and persons having
7 knowledge of the location of archaeological sites are
8 encouraged to communicate such information to the
9 Department.

10 Section 13985.25. Penalties. It shall be unlawful for
11 any person to take, appropriate, excavate, injure, or
12 destroy any prehistoric or historic ruin or monument or
13 object of antiquity, situated on lands owned or controlled
14 by the territory without the permission of the Department.
15 Any person who violates this section shall be fined not more
16 than One Thousand Dollars (\$1,000) or imprisoned not more
17 than ninety (90) days, or both.

18 Any prehistorical and historical objects and remains
19 which have been taken without a permit shall be seized,
20 deposited, and preserved in public museums by the Depart-
21 ment.

22 Section 13985.26. Prehistoric or historic objects;
23 public property. The Department shall, subject to
24 the provisions of this Chapter, determine the dis-
25 position of such prehistoric or historic remains or
26 objects wheresoever located within the territory which
27 are the property of the territory. Any person who
28 disturbs remains or objects of prehistoric or historic
29 significance or removes such remains or objects from
30 its site with the intent to convert the object to his own
31 use or for the use of others shall be fined not more than

1 One Thousand Dollars (\$1,000) or imprisoned not more than
2 ninety (90) days, or both.

3 When a private landowner or lessee in the territory
4 discovers remains or objects which may be of historic
5 significance on his property, he shall report the location
6 of such remains or objects, without disturbing the remains
7 or objects, to the Department. Such private landowner shall
8 be compensated, in accordance with Section 13985.11 for any
9 prehistoric or historic remains or objects excavated or
10 removed from his lands by the Department.

11 Section 13985.27. Reproduction of prehistorical or
12 historical objects; representation as originals; penalties.
13 It shall be unlawful to reproduce or forge a prehistorical
14 or historical object with the intent to represent it as
15 an original. Any person who violates this section shall
16 be fined not more than One Thousand Dollars (\$1,000) or
17 imprisoned not more than ninety (90) days, or both.

18 Section 13985.28. Removal and trespass. It shall be
19 deemed an act of trespass for any person, natural or
20 corporate, to remove artifacts and antiquities of the kind
21 described herein from the private land of any owner thereof
22 without his permission being first obtained, and any
23 person so doing shall be guilty of a misdemeanor punishable
24 by a fine not exceeding Five Hundred Dollars (\$500) or by
25 imprisonment for a period not to exceed six (6) months,
26 or both.

27 Part III. Protection and Recovery of Underwater
28 Historic Properties and Sites

29 Section 13985.29. Declaration of legislative intent.
30 The Legislature declares that the public has an interest
31 in the protection and salvage of underwater historic

1 properties situated under the navigable waters and
2 territorial seas of the territory; that the public has a
3 right to the knowledge to be derived and gained from a
4 scientific study of these materials; and that therefore
5 it is the purpose of this part to provide that activities
6 for the protection, recovery, study, and exhibition of
7 underwater historic properties be undertaken in a coordi-
8 nated and organized manner for the general welfare of the
9 public as a whole.

10 Section 13985.30. Definitions. As used in this part,
11 'underwater historic property' means any shipwreck, vessel,
12 cargo, tackle, or underwater archaeological specimen,
13 including any found at refuse sites or submerged sites of
14 former habitation, that has remained unclaimed for more
15 than ten (10) years on the bottoms of any waters.

16 Section 13985.31. Title to underwater historic property.
17 Subject to any statute of the United States and any vested
18 riparian rights, the title to all bottoms of navigable water
19 within Guam's boundaries and the title to any underwater
20 historic property living on or under such bottoms is declared
21 to be in the territory, and such bottoms and underwater
22 historic properties shall be subject to the exclusive
23 dominion and control of the territory.

24 Section 13985.32. Custody of underwater historic
25 property. The custodian of underwater historic properties
26 as defined in Sections 13985.29 and 13985.30 shall be the
27 Department which shall administer the preservation and
28 protection of these properties as hereinafter directed by
29 this part. The Department is empowered to prescribe such
30 rules and regulations as may be necessary to preserve,
31 protect, and recover any or all underwater historic

1 properties.

2 Section 13985.33. Salvage research. The Department
3 shall establish a center responsible for salvage research
4 in areas designated by the Department as endangered by the
5 lease, sale, or use of public or private lands.

6 Section 13985.34. Permits. Any qualified person, firm,
7 or corporation desiring to conduct any type of exploration
8 or recovery operations, in the course of which any under-
9 water historic property or part thereof may be removed,
10 displaced, or destroyed, shall first make application
11 to the Department for a permit to conduct such operations.
12 If the Department finds that the granting of such permit
13 is in the best interest of the territory, it may grant
14 such applicant a permit for such a period of time and
15 under such conditions as the Department deems to be in
16 the best interest of the territory. Such permit may provide
17 for the fair compensation to the permittee in terms of a
18 percentage of the reasonable cash value of the objects
19 recovered or a fair share of the objects recovered, such
20 fair compensation or share to be determined by the
21 Department. Superior title to all objects recovered shall
22 be retained by the territory unless or until they are
23 released to the permittee by the Department. All exploration
24 and recovery operations undertaken pursuant to a permit
25 issued under this section shall be carried out under the
26 general supervision of the Department and in accordance
27 with the rules and regulations prescribed under Section
28 13985.32 and in such manner that the maximum amount of
29 historic, scientific, archaeological, and educational
30 information may be recovered and preserved in addition to
31 the physical recovery of items. Permits may be renewed upon

1 or prior to expiration upon such terms as the Department
2 may specify. Holders of permits shall be responsible for
3 obtaining permission of any federal agencies having
4 jurisdiction prior to conducting any salvaging operations.

5 Section 13985.35. Penalties. Any person violating the
6 provisions of this part or any rules and regulations duly
7 established thereunder shall be guilty of a misdemeanor
8 punishable by a fine not exceeding Five Hundred Dollars
9 (\$500) or by imprisonment for a period not to exceed six
10 (6) months, or both, and, in addition, shall forfeit to
11 the territory any artifacts or objects collected.

12 Part IV. Guam Institute of Spanish-Chamorro
13 Culture

14 Section 13985.36. Statement of purpose. The purpose of
15 this part is to create a nonprofit corporation for historic
16 and cultural preservation, research, restoration, presenta-
17 tion, museum activities, and support programs; and in
18 cooperation with and in assistance to the Department
19 and other territorial agencies to receive sites, buildings,
20 and objects significant in Guam's history and culture, to
21 preserve and administer them for public benefits; to accept,
22 hold, and administer gifts, securities, grants, scholar-
23 ships, endowments, private bequests, or other property
24 of whatsoever character for a comprehensive historic and
25 cultural preservation and museum's program. r

26 This corporation shall be the depository of all
27 resources which are made available or offered of desirable
28 land, historical collections, and donations made by groups
29 and persons as gifts to the territory to help insure the
30 Spanish-Chamorro heritage.

31 Section 13985.37. Establishment of the Guam Institute

1 of Spanish-Chamorro Culture; board of trustees. There is
2 created an educational, nonprofit corporation to be known
3 as the Guam Institute of Spanish-Chamorro Culture which
4 shall be headed by a board of trustees.

5 The board shall consist of eleven (11) members of
6 which the following shall serve as ex-officio voting
7 members of the board:

- 8 (1) President of the University of Guam,
- 9 (2) Director of the Department of Land Management,
- 10 (3) Director of the Central Planning Commission,
- 11 (4) Director of Commerce,
- 12 (5) Attorney General.

13 The remaining members shall be chosen by the members
14 of the Institute from its membership at any regular meeting
15 of the Institute except that the initial members of the
16 board shall be appointed by the Governor. Each member of
17 the board other than ex-officio members shall serve for a
18 term of five (5) years from the expiration of his pre-
19 decessor's term, except that the members first appointed
20 shall serve for terms of from one (1) to five (5) years
21 as designated by the Governor at the time of appointment.

22 A vacancy in the board shall be filled for the balance
23 of the unexpired term as prescribed in the rules and
24 regulations of the Institute. The chairman of the board
25 shall be elected by majority vote of the members of the
26 board. No compensation shall be paid to members of the
27 board of trustees for their services as such members, but
28 they may be reimbursed for travel and actual and reasonable
29 expenses necessarily incurred by them in attending board
30 meetings and performing other official duties on behalf
31 of the Institute at the direction of the board.

1 Membership shall be open to any resident of Guam upon
2 payment of such reasonable fees as the board of trustees
3 may prescribe.

4 Section 13985.38. Powers and duties. The Guam
5 Institute of Spanish-Chamorro Culture shall have the
6 following powers and duties:

7 (1) To have succession until dissolved by act of
8 the Legislature, in which event title to the properties
9 of the Institute, both real and personal, shall, insofar
10 as consistent with existing contractual obligations and
11 subject to all other legally enforceable claims or
12 demands by or against the Institute, pass to and become
13 vested in the territory;

14 (2) To sue or be sued in its corporate name;

15 (3) To adopt, alter, and use a corporate seal;

16 (4) To adopt a constitution and to make such bylaws,
17 rules, and regulations, not inconsistent with the laws
18 of the territory, as it deems necessary for the administra-
19 tion of its functions, bylaws, rules, and regulations
20 governing visitation to historic properties, museums,
21 and other facilities under its control, administration of
22 corporate funds, and the organization and procedure of the
23 board of trustees;

24 (5) To select and employ a director to serve on a
25 full-time basis who shall be a native-born resident who
26 by reason of education or extensive experience is generally
27 recognized as being professionally qualified in the
28 field of Spanish-Chamorro culture, who shall receive a
29 salary of Twenty-Five Thousand Dollars (\$25,000) per year.
30 The director shall execute the powers and duties of the
31 Institute under the direction of the board of trustees

1 and shall select necessary additional staff subject to
2 Title V of the Government Code, within available appro-
3 priations;

4 (6) To administer and direct the operations of the
5 Guam Museum. The Institute director shall serve as the
6 museum director and shall hire necessary additional
7 staff subject to Title V of the Government Code. The
8 Institute shall submit in its first annual report recom-
9 mendations as to the responsibility and role which the
10 museum should assume with respect to the preservation
11 and furtherance of the historic, archaeological, archi-
12 tectural, and cultural heritage of Guam and as to organi-
13 zation and administrative arrangements which should be
14 provided for by law or otherwise;

15 (7) To accept, hold, and administer funds and pro-
16 perties from private or governmental agencies for the pur-
17 poses for which the Institute is created and in accordance
18 with such conditions as the transferring agency or the
19 Legislature may prescribe;

20 (8) To accept, hold, and administer gifts and bequests
21 of money, securities, or other personal property of
22 whatever character, in trust, for the purposes for
23 which the Institute is created. Unless otherwise restricted
24 by the terms of the bequest or gift, the Institute is
25 authorized to sell, exchange, or otherwise dispose of,
26 and to invest or reinvest in such investments as it
27 may determine from time to time the moneys, securities,
28 or other property given or bequeathed to it. The principal
29 of such corporate funds, together with the income therefrom
30 and all other revenues received by it from any source
31 whatsoever, shall be placed in such depositories as the

1 Institute shall determine and shall be subject to
2 expenditure by the Institute for its corporate purposes;

3 (9) To acquire by gift, devise, purchase, and to hold
4 in trust real property for the territory and for the
5 people of Guam unless otherwise restricted by the
6 terms of the gift or devise, to encumber, convey, or
7 otherwise dispose of any real property, or any estate
8 or interest therein with the exception that no designated
9 historic site or monument may be encumbered, conveyed, or
10 disposed of without legislative approval, as may be
11 necessary and proper in carrying into effect the purposes
12 of the Institute;

13 (10) To conduct research, studies, and investigations
14 in the fields of history and the humanities, and to make,
15 publish, and distribute the results thereof;

16 (11) To coordinate and correlate activities and
17 projects of the Institute with the work of the University
18 of Guam, the Department, and other territorial agencies
19 to further the purposes of this Chapter;

20 (12) To stimulate, guide and promote the Spanish-
21 Chamorro culture which includes the arts, music, festi-
22 vities, customs, traditions and mores of the Spanish-
23 Chamorro heritage;

24 (13) To assist in coordinating the plans, programs
25 and activities of individuals, associations, corporations,
26 and agencies concerned with the preservation and further-
27 ance of Spanish-Chamorro culture;

28 (14) To review the work of the Department and to
29 collaborate with in on its functions under this Chapter,
30 pertaining to historical objects and sites, and to review
31 such surveys and historic preservation plans as may be

1 required, and to approve properties for nomination to
2 the National Register as provided for in the Historic
3 Preservation Act of 1966, Public Law 89-665.

4 (15) To establish within the Institute, a review
5 board for the Guam Register of Historic Places, which meets
6 the requirements of Public Law 89-665, to evaluate and
7 nominate historical properties to the National Register
8 of Historic Places pursuant to Public Law 89-665, and to
9 order and enter historical and archaeological sites into
10 the Guam Register of Historic Places on the basis of
11 their value to Guam's heritage. The review board shall
12 be appointed by the board of trustees of the Institute
13 and no more than two (2) members of the board of
14 trustees shall be appointed to the review board. Trustee-
15 members of the review board may be reimbursed at the
16 same rate as other members of the review board for
17 official duties performed while serving on the review
18 board. Until such time as the review board is established
19 in accordance with this subsection, the Guam Review
20 Board for Historic Preservation which was created by
21 Executive Order 73-27 shall discharge the responsibilities
22 of this subsection;

23 (16) To enter into contracts and to execute all
24 instruments necessary and appropriate to carry out the
25 purposes of the foundation;

26 (17) To approve all designations of particular places
27 as places of historical interest;

28 (18) To establish and maintain an inventory, and
29 certification and evaluation system for portable artifacts
30 significant to Guam's cultural heritage; and

1 (19) To maintain a living war memorial commemorating
2 the sacrifices of our heroic dead of World War II.

3 Section 13985.39. Development of support programs.
4 The Institute shall develop a continuing comprehensive
5 museum and museum activities support program in furtherance
6 of its responsibility under Section 13985.37 which shall
7 include, but not be limited to:

8 (1) Providing matching grants-in-aid to governmental
9 or private agencies for projects which fulfill the purposes
10 of this part;

11 (2) Providing technical assistance and staff develop-
12 ment and training opportunities; and

13 (3) Assisting in the training of competent museum
14 personnel and in the development of employment and career
15 opportunities in museum and related fields.

16 Section 13985.40. Annual report. The Institute shall
17 submit an annual report to the Governor and the Legislature.
18 The report shall include, but not be limited to, the
19 total number and amount of gifts received, payroll dis-
20 bursements, contracts entered into, progress and accom-
21 plishments made during the year, and recommendations for
22 legislative and administrative action for the preservation
23 and furtherance of the goals and purpose of this Act.

24 Part V. Preservation Procedures To
25 Guide Territorial Agencies

26 Section 13985.41. Declaration of legislative intent.
27 The Legislature declares it to be the public policy of this
28 territory to provide leadership in preserving, restoring,
29 and maintaining the historic, architectural, archaeological,
30 and cultural environment of this territory and that there-
31 fore it is the purpose of this part to provide that the

1 instrumentality of the territory administer the historic
2 properties under their control in a spirit of stewardship
3 and trusteeship for future generations and conduct their
4 activities, plans, and programs in a manner consistent
5 with preservation and enhancement of historic properties
6 and sites.

7 Section 13985.42. Responsibilities of territorial
8 agencies. All agencies, departments, bureaus, and commis-
9 sions of the territory, shall:

10 (1) Consult the Guam Institute of Spanish-Chamorro
11 Culture before demolishing, altering, or transferring any
12 property under their jurisdiction that is potentially of
13 historical, architectural, archaeological, or cultural
14 significance, including, but not limited to, any property
15 listed on the territorial register.

16 (2) Initiate measures and procedures to provide for
17 the maintenance, through preservation, rehabilitation,
18 or restoration, of properties under their ownership that
19 are listed on the territorial or national register; such
20 measures and procedures shall comply with applicable
21 standards prescribed by the Department.

22 (3) Develop plans for the maintenance, through
23 preservation, rehabilitation, or restoration, of
24 historic properties under their ownership in a manner
25 compatible with preservation objectives and which do
26 not result in an unreasonable economic burden to public
27 interest.

28 (4) Institute procedures to assure that their plans,
29 programs, codes, and regulations contribute to the preser-
30 vation and enhancement of sites, structures, and objects
31 of historical, architectural, archaeological, or cultural

1 significance.

2 (5) Submit annually procedures required pursuant
3 to Paragraphs (2), (3), and (4) to the Department and the
4 Institute for review and comment.

5 (6) Determine whether their existence is no longer
6 necessary in view of the Institute's responsibilities
7 and if so, to report same to the Institute, the Governor,
8 and the Legislature within ninety (90) days of the effective
9 date of this Act."

10 Section 2. Severability. If any provision of this Act
11 or the application thereof to any person or circumstance is
12 held invalid, the invalidity does not affect other provisions
13 or applications of the Act which can be given effect without the
14 invalid provision or application; and to this end the provisions
15 of this Act are severable.

16 Section 3. Appropriation. There is hereby authorized to
17 be appropriated from any Unappropriated Surplus of the General
18 Fund such sum as may be necessary to implement the intent of
19 this Act.