

THIRTIETH GUAM LEGISLATURE
1975 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 208, "An Act to repeal Chapter III, Title LXV and sections 24002 and 24007 of Chapter I, Title XXV of the Government Code of Guam, and to enact a new Chapter III providing for the adopting, making, approving and publishing of rules and regulations by any Agency, Board, Commission, Department, Division, Bureau or Office of the Territory of Guam, and repealing all sections of the Government Code of Guam in conflict therewith, and enact new sections 24002, 24007, and 24008 of Chapter I, Title XXV", was on the 17th day of June, 1975, duly and regularly passed.

Joseph F. Ada
JOSEPH F. ADA
Speaker

ATTESTED:

Concepcion Cruz Barrett
CONCEPCION CRUZ BARRETT
Legislative Secretary

This Act was received by the Governor this 20th day of June, 1975 at 7:35 o'clock P.M.

ROSE F. WONG PAT
Assistant Staff Officer
Governor's Office

APPROVED:

RICARDO J. BORDALLO
RICARDO J. BORDALLO
Governor of Guam

DATED: July 1, 1975
12:01 P.M.

P.L. 13-40

THIRTEENTH GUAM LEGISLATURE
1975 (FIRST) Regular Session

Bill No. 268

(Substitute Bill by the
Committee on Judiciary and
Consumer Protection)

Introduced by

C. C. Barrett
R. F. Taitano
G. R. Salas

AN ACT TO REPEAL CHAPTER III, TITLE XXV
AND SECTIONS 24002 AND 24007 OF CHAPTER I,
TITLE XXV OF THE GOVERNMENT CODE OF GUAM,
AND TO ENACT A NEW CHAPTER III PROVIDING
FOR THE ADOPTING, MAKING, APPROVING AND
PUBLISHING OF RULES AND REGULATIONS BY ANY
AGENCY, BOARD, COMMISSION, DEPARTMENT,
DIVISION, BUREAU OR OFFICE OF THE TERRITORY
OF GUAM, AND REPEALING ALL SECTIONS OF THE
GOVERNMENT CODE OF GUAM IN CONFLICT THEREWITH,
AND ENACT NEW SECTIONS 24002, 24007, AND
24008 OF CHAPTER I, TITLE XXV.

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

2 Section 1. Chapter III, Title XXV of the Government Code
3 of Guam, including Sections 24200 through 24207, is hereby
4 repealed, and a new Chapter III is enacted to read as follows:

5 "CHAPTER III

6 RULE MAKING PROCEDURES

7 Section 24200. Legislative Intent. It is the in-
8 tent of the Legislature to establish a uniform method
9 of making, adopting, promulgating, filing and publishing
10 rules by all agencies of this territory, to permit public
11 participation therein and provide a method of making
12 rules readily accessible to the public. It is not in-
13 tended to give to any agency any additional rule-making
14 power or authority and no additional or new power or
15 authority to make or adopt rules is given to any agency
16 by this Act.

17 Section 24201. Adoption, repeal, recession or

1 amendment of rules: procedure. Before any rule is adopted,
2 amended, rescinded or repealed by any agency it shall cause
3 a notice to be published in a newspaper of general cir-
4 culation in the territory of Guam, at least ten (10) days
5 prior to the date set for a hearing, said notice shall
6 include a statement of the time and place of said hearing,
7 a reference to the subject-matter of the proposed rule or
8 rules and refer to the fact that a copy of said proposed
9 rule or rules is on file at the office of said agency where
10 it may be examined, provided, however, that no rule shall
11 be invalid because the reference to the subject matter
12 thereof in said notice may be inadequate or insufficient.
13 At least five (5) copies of said proposed rule or rules
14 shall be on file at the office of said agency from the
15 date of publication of said notice continuously until the
16 said hearing and any interested person shall be given an
17 adequate opportunity to examine a copy of said proposed
18 rule or rules.

19 On the date set for hearing any interested party in
20 person or his authorized representative or both shall be
21 afforded an adequate opportunity to participate in the
22 formulation of the proposed rule or rules through the
23 presentation of facts or argument or the submission of
24 written data or views. All relevant matter presented shall
25 be given full consideration by the agency, and a change in
26 the proposed rule or rules because of facts, arguments,
27 written data or views stated at the hearing will not require
28 the setting of a new hearing unless it is so determined by

1 said agency.

2 Any agency may adopt procedures in addition to those
3 required by this Act including the holding of conferences
4 and inviting and permitting the submission of suggestions,
5 facts, arguments, and views of interested persons in
6 advance of the drafting of the proposed rule or rules.

7 Section 24202. Same: circulation and filing: it
8 shall be the duty of every agency which may have been or
9 hereafter may be clothed with or given any power or
10 authority to make, adopt, promulgate or enforce rules to:

11 A. Prepare said rules in a form approved by the
12 Attorney General or other legal counsel of the
13 agency and where required by law, approved by
14 the Governor, and which will conform to a
15 standard system, or code, of rules adopted
16 by the Legislative Secretary for guidance of
17 all agencies.

18 B. File the original approved copy and one (1)
19 duplicate copy with the Legislative Secretary
20 of the Legislature. The Legislative Secretary
21 shall maintain a permanent register of such
22 rules which shall include a notation of the
23 date and hour of such filing thereon.

24 After January 1, 1976, no such rule shall be effective
25 until after compliance with the provisions of this Act
26 and until they have been so approved and filed, where-
27 upon they shall be effective as of the date and time
28 filed with the Legislative Secretary of the Legislature.

1 Section 24203. Publication. As soon as practicable
2 after the effective date of this Act:

3 (1) The Legislative Secretary of the Legislature
4 shall compile, index, codify and publish all the rules
5 filed with him under the provisions of this Act. The
6 compiled publication shall be entitled 'Administrative
7 Rules and Regulations, Government of Guam' and the
8 Legislative Secretary may make non-substantive changes in
9 the numbering and form of the rules as submitted by
10 the agencies to cause the same to conform to a standard
11 system. If, in any rule adopted by any agency, any
12 standard, codes or manuals are adopted by reference the
13 same need not be copied in said published volume but only
14 the rule as adopted shall be copied.

15 (2) The Legislative Secretary shall publish a
16 quarterly bulletin in which he shall set forth the text
17 of all rules filed during the preceding quarter excluding
18 rules contained in the first publication by the Legis-
19 lative Secretary of the 'Administrative Rules and Regu-
20 lations' of the agencies of the Government of Guam.

21 (3) The Legislative Secretary may, in his discretion,
22 omit from the bulletin or the compilation, rules the
23 publication of which would be unduly cumbersome, expensive
24 or otherwise inexpedient, if such rules are made available
25 in printed or processed form on application to the adopting
26 agency, and if the bulletin or compilation contains a
27 notice stating how copies thereof may be obtained.

28 (4) Bulletins and compilations shall be made

1 available to officials of this territory and to other
2 persons at a price fixed by the Legislative Secretary
3 to cover publication and mailing costs.

4 (5) The Legislative Secretary shall supplement or
5 revise the published volume of rules as often as necessary
6 and at least once every two (2) years.

7 Section 24204. Same. Any agency may cause to be
8 printed in pamphlet form those rules which were adopted
9 by or affect such agency and may sell the same at cost.
10 The proceeds of such sales shall be covered into the
11 treasury of Guam. The agency may also include in any
12 such publication copies of statutes affecting such
13 agency and its jurisdiction and such other information as
14 would be helpful to parties affected by the laws, rules
15 and administration of such agency.

16 Section 24205. Rules: judicial notice of. Any
17 such rule or regulation adopted, approved, recorded and
18 published as herein provided shall be judicially noticed
19 by all courts and agencies of this territory and the
20 official publication thereof as herein provided shall be
21 prima facie evidence that said rule or regulation was
22 adopted, approved and filed as herein provided.

23 Any such rule or regulation may be cited or pleaded
24 by volume, page and section number without copying the
25 same.

26 The determination and construction of such rules
27 and regulations in all actions except criminal actions
28 shall be made by the court as a matter of law and not

1 by the jury.

2 Section 24206. Petition for adoption of rules.

3 Any interested person may petition an agency requesting
4 the promulgation, amendment, or repeal of any rule. Each
5 agency shall prescribe by rule the form for such petitions
6 and the procedure for their submission, consideration,
7 and disposition. Provided that all such petitions shall
8 be denied specifying the reasons therefor, or set for
9 hearing in accordance with the provisions of Section
10 24201 by said agency within sixty (60) days of the date
11 of the filing thereof.

12 Section 24207. Petition: declaratory ruling on
13 validity. On petition of any interested person, any
14 agency may issue a declaratory ruling with respect to the
15 applicability to any person, property, or state of facts
16 of any rule or statute enforceable by it. A declaratory
17 ruling, if issued after argument and stated to be binding,
18 is binding between the agency and the petitioner on the
19 state of facts alleged, unless it is altered or set aside
20 by a court. Such a ruling is subject to review in the
21 Superior Court of Guam in the manner hereinafter provided
22 for the review of decisions in the contested cases. Each
23 agency shall prescribe by rule the form for such petitions
24 and the procedure for their submission, consideration,
25 and disposition.

26 Section 24208. Petition: declaratory judgment by
27 court.

28 (1) The validity of any rule may be determined upon

1 petition for a declaratory judgment thereon addressed to
2 the Superior Court of Guam, when it appears that the rule,
3 or its threatened application, interferes with, or impairs,
4 or threatens to interfere with or impair the legal rights
5 or privileges of the petitioner. The agency shall be made
6 a party to the proceeding. The declaratory judgment may
7 be rendered only after the petitioner has first requested
8 the agency to pass upon the validity of the rule in ques-
9 tion and the agency has so ruled or has failed to rule
10 within ninety (90) days.

11 (2) The court shall declare the rule invalid if it
12 finds that it violates provisions of law, exceeds the
13 statutory authority of the agency or was adopted without
14 compliance with statutory rule-making procedures.

15 Section 24209. Validity. If any provision of this
16 Act or the application thereof to any person or circum-
17 stances is held invalid, such invalidity shall not affect
18 other provisions or applications of the Act which can be
19 given effect without the invalid provisions or application,
20 and to this end the provisions of this Act are declared to
21 be severable.

22 Section 24210. Construction: That portion of each
23 and every act heretofore enacted into law which grants to
24 any agency of the territory of Guam, the power to issue
25 rules and regulations in any manner or method other than
26 prescribed by this Act is hereby specifically repealed as
27 it is the intent that the method of adopting and promul-
28 gating administrative rules and regulations prescribed by

1 this Act is to be the only lawful method of adopting and
2 promulgating administrative rules and regulations after the
3 effective date of this Act.

4 Section 24211. All acts or parts of acts which are
5 inconsistent with the provisions of this Act are hereby
6 repealed, but such repeal shall not affect pending proceed-
7 ing."

8 Section 2. Sections 24002 and 24007 of Chapter I of
9 Title XXV of the Government Code of Guam are hereby repealed
10 and new Sections 24002, 24007 and 24008 are hereby added to
11 the Government Code of Guam to read as follows:

12 Section 24002. Agency. The word 'agency' whenever
13 used in this Title shall mean and include any board,
14 commission, department, division, bureau or officer of the
15 territory of Guam authorized by law to make rules or to
16 adjudicate contested cases. It is the intent that no board,
17 commission, department, division, bureau or officer be
18 excluded from the provisions of this Title, except those
19 in the legislative and judicial branches.

20 Section 24007. Rule. The word 'rule' means any
21 rule, regulation, standard, classification, procedure,
22 or requirement of any agency, designed to have or having
23 the effect of law or interpreting, supplementing or
24 implementing any law enforced or administered by it or to
25 govern its organization or procedure, but does not include
26 regulations, resolutions or directions relating solely
27 to internal policy, internal agency organization or
28 internal procedure which do not directly affect the rights

1 of or procedures available to the public, and does not
2 include 'administrative adjudication'.

3 Section 24008. Administrative Adjudication.

4 'Administrative adjudication' means that administrative
5 investigation, hearing and determination by any agency
6 of issues or cases applicable to particular parties."

7 Section 3. Exceptions. The provisions of this statute
8 shall not be applicable to any agency (as defined in Section
9 24002) which has heretofore promulgated rules and regulations
10 under authority of law and delivered the same to the Legisla-
11 tive Secretary in accordance with P. L. 12-41 prior to
12 September 30, 1974, unless and until such agency desires to
13 amend, repeal or add to such rules and regulations. Provided
14 further that the rules and regulations of each of such agencies
15 as the same shall have been codified in those certain volumes
16 entitled 'Administrative Rules and Regulations, Government
17 of Guam', issued by the Secretary of Guam shall be deemed to
18 have been officially issued and promulgated in the exact form
19 and substance appearing in said publication regardless of
20 any change that shall have been made in the publication from
21 the official text of the rules and regulations as submitted
22 to the Legislative Secretary. Said rules and regulations
23 may be cited by reference to volume, page and section number
24 appearing in the publication referred to.

25 Section 4. There is hereby authorized to be appropriated
26 to the Guam Legislature for the account of the Legislative
27 Secretary from the Unappropriated Surplus of the General Fund,
28 the sum of Fifty Thousand Dollars (\$50,000) for the purpose
29 of carrying out the provisions of this Act during the calendar
30 year 1975.