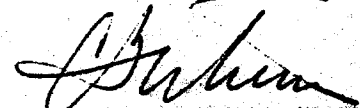


SEVENTEENTH GUAM LEGISLATURE
1983 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 45, "AN ACT TO REPEAL SECTION 90, CODE OF CIVIL PROCEDURE, AND TO REENACT SECTION 90, CODE OF CIVIL PROCEDURE, REQUIRING THE AFFIRMATIVE ADVICE AND CONSENT IN THE SELECTION OF JUDGES AND FOR OTHER PURPOSES," was on the 7th day of November, 1983, duly and regularly passed.


CARL T. C. GUTIERREZ
Speaker

Attested:


ELIZABETH P. ARRIOLA
Senator and Legislative Secretary

This Act was received by the Governor this 8th day of November, 1983, at 2:54 o'clock P.m.

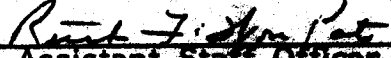
APPROVED:


RICARDO J. BORDALLO
Governor of Guam

Date: November 10, 1983

5:10 pm

PUBLIC LAW 17-28


Assistant Staff Officer
Governor's Office

SEVENTEENTH GUAM LEGISLATURE
1983 (FIRST) Regular Session

Substitute Bill No. 45

Introduced by:

F. R. Santos
A. C. Lamorena, III

AN ACT TO REPEAL SECTION 90, CODE OF CIVIL PROCEDURE, AND TO REENACT SECTION 90, CODE OF CIVIL PROCEDURE, REQUIRING THE AFFIRMATIVE ADVICE AND CONSENT IN THE SELECTION OF JUDGES AND FOR OTHER PURPOSES.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:
2 Section 1. Section 90, Code of Civil Procedure, is hereby repealed in
3 its entirety, and a new Section 90, Code of Civil Procedure, is hereby
4 enacted to read as follows:

5 "Section 90. Selection of Judges. Whenever a vacancy shall
6 occur in the office of the judge or justice, the Governor shall fill such
7 vacancy by appointing a person with the advice and consent of the
8 Legislature, who has practiced law on Guam for at least six (6) months. In
9 making said appointment, the Governor shall give consideration to names
10 which have been timely submitted to him by the Judicial Council. Within
11 fifteen (15) calendar days of the expiration of the term of any judge or
12 justice whose office has not been filled pursuant to §91 of this Chapter, the
13 Governor shall submit his appointment for said office to the Legislature for
14 its advice and consent. Should a judge or justices vacate his office before
15 his term expires, the Governor shall submit his appointment for that office
16 to the Legislature for its advice and consent."

17 Section 2. Section 41001 of the Government Code is amended to read
18 as follows:

19 "§41001. Savings and Loan Association. The term 'savings and
20 loan association' is hereby defined to mean any incorporated stock
21 institution or mutual association which shall have been incorporated to
22 conduct, or shall be engaged in conducting the business of receiving
23 and lending money in accordance with provisions of this Act, or shall

1 have heretofore been incorporated to conduct the business of receiving
2 and lending money in accordance with the provisions of any Act or
3 Acts, or part or parts of any Act or Acts, of which this Act is a
4 continuation or amendment."

5 Section 3. Section 41100 of the Government Code of Guam is hereby
6 amended to read as follows:

7 "§41100. In general. Domestic associations may be incorporated
8 with stock, or stock and shares, or incorporated as mutual associations
9 and with all the rights, powers and privileges and subject to all the
10 restrictions and liabilities set forth in this Act. Domestic associations
11 also shall have the powers and privileges provided by law as to
12 corporations generally, except as expressly provided to the contrary
13 in this Act. The provisions of law as to corporations generally also
14 shall be applicable to domestic associations, except where inconsistent
15 with the corresponding provisions of this Act, in which case the
16 provisions of this Act shall prevail; provided, however, that no
17 association shall be permitted to issue shares or investment certificates
18 or to accept subscriptions therefore or payments thereon or to accept
19 accounts or deposits until it shall have insured with the Federal
20 Savings and Loan Insurance Corporation all payments and funds
21 received from subscriptions for, or issuance of, shares or investment
22 certificates or accounts or deposits, to the maximum amount of
23 insurance permitted under the rules and regulations of the Federal
24 Savings and Loan Insurance corporations and applicable provisions of
25 law, as now in affect or as may be hereafter enacted."

26 Section 4. Section 6. A new Section 41109 is hereby added to Title
27 XXXVII of the Government Code of Guam is hereby added to read as
28 follows:

29 "§41109. Mutual Savings and Loan Associations organized and
30 operating under this title may raise capital in the form of such savings
31 deposits, shares or other accounts to the same extent that a federal
32 savings and loan association doing business in this territory could
33 raise capital (whether or not such association is doing such business).
34 The account holders or depositors of such a mutual association shall be

1 members of the association and shall have such rights and obligations
2 as are possessed by members of a federal savings and loan association
3 that is doing business in this territory (whether or not such
4 association is doing such business). The term 'mutual savings and
5 loan association' is hereby defined to mean a savings and loan
6 association that is incorporated without provisions for the issuance of
7 stock."

8 Section 5. A new Section 41156 is hereby added to Title XXXVII of
9 the Government Code of Guam to read as follows:

10 "§41156. Notwithstanding any other provision of law, savings and
11 loan associations organized or operating under this title may exercise
12 any and all such powers and may offer and accept any accounts or
13 deposits that are permitted to be exercised or offered or accepted by a
14 federal savings and loan association doing business in this territory
15 (whether or not such association is doing such business). Nothing in
16 this Section shall restrict or limit any right or power that a domestic
17 association has under any other provision of law. All such accounts
18 or deposits shall be legal investments for the funds of the government
19 of Guam to the extent such shares are insured by the Federal Savings
20 and Loan Insurance Corporation, and for the funds of executors,
21 administrators, guardians, receivers, and trustees of every kind and
22 nature, and for the funds of all insurance companies, and when, by
23 any law of this territory, it is provided that the monies of any pension
24 fund, retirement plan, trust fund, or the monies of any fund the
25 investment of which is governed by law may or shall be invested in
26 securities which are a legal investment for savings banks, then such
27 law shall be deemed to authorize investment of such monies in such
28 accounts or deposits."

29 Section 6. A new Section 41508 is hereby added to Chapter X of Title
30 XXXVII of the Government Code of Guam to read as follows:

31 "§41508. Notwithstanding any provision of law (including Sections
32 41107 and 41502 of the Government Code), a savings and loan
33 association whose accounts are insured by the Federal Savings and
34 Loan Insurance Corporation ('FSLIC') shall be deemed to meet all net

1 worth, reserve or capital requirements for all purposes of this Act if
2 the association is in compliance with the regulatory net worth, reserve
3 or capital requirements established by the FSLIC for associations whose
4 accounts are insured by the FSLIC. An association whose accounts
5 are insured by the FSLIC may include as net worth, reserves or
6 capital all items that the FSLIC permits FSLIC insured associations to
7 include as net worth, reserves or capital for purposes of meeting any
8 net worth, reserve or capital requirements established by the FSLIC."

9 Section 7. Chapter VII, Sections 41350, 41351 and 41352, is hereby
10 repealed in its entirety from Title XXXVII of the Government Code of Guam.

11 Section 8. Subsection (g) is hereby added to Section 6120, of the
12 Government Code of Guam, to read:

13 "(g). Notwithstanding the first paragraph of this Section, or
14 any other provision of law, the terms of the line of credit arranged by
15 the Governor as provided by this Section, may permit the bank or
16 commercial lending institution licensed on Guam with which such line of
17 credit is arranged, to grant participation in such line of credit, at
18 such times and in such amounts and upon such terms and conditions as
19 such bank or lending institution licensed in Guam shall determine, to
20 other banks, or commercial lending institutions, including those not
21 licensed on Guam, or to any other persons, associations, or
22 corporations. The exemption from taxation by the Government of Guam
23 of the interest derived from the line of credit shall be preserved to
24 any such participant. Such participation shall be made by public
25 offering."

26 Section 9. Section 4223 of the Government Code (now codified as
27 Section 8141 of Title 4 of the Guam Code Annotated) is amended to read:

28 "Section 8141. Employees of Fund.

29 (a) The Director may employ such clerical, medical or other
30 assistance as shall be necessary for the proper administration of the
31 fund. The Director may also engage actuarial or other professional
32 service to assist in the preparation of the annual reports, to advise in
33 matters of policy and to make the periodic actuarial surveys. The
34 costs and expenses of the administration of the fund including any

1 audit fees incurred in connection with the financial operation of the
2 fund shall be paid out of said fund, provided that any payments
3 related to the management of the investment account such as
4 investment counseling service and custodial fees shall be a direct
5 charge to Investment Income. At least once every five (5) years an
6 actuarial survey and investigation shall be made of the operating
7 experience of the fund, including a study of rates of mortality,
8 disability, retirement, separation and other essential factors relating to
9 the operations of the fund. Such survey shall also provide for a
10 verification or redetermination of the rates of contributions by the
11 Government. The costs of such survey shall be paid from the fund.

12 (b) The Board of Trustees may employ an attorney to assist and
13 represent it in all civil matters which concern the Board. The
14 Attorney General shall represent the Board all in litigation in which
15 the Board is interested, provided that the Attorney General shall
16 designate the attorney for the Board as a Special Assistant Attorney
17 General for this purpose.

18 The Board of Trustees may set the terms and conditions of
19 employment for the attorney and his compensation."

20 Section 10. Section 11 of Chapter II of P.L. 17-25 is amended to
21 read:

22 "Section 11. No position funded by this Act shall be filled by
23 persons employed through employment contracts or through special contracts
24 who are hired on island. Whenever it becomes necessary to contract for
25 services from off-island because of recruitment difficulty, and if not
26 otherwise prohibited by other provisions of law or this Act, the employment
27 contract shall be the same format as the current off-island contract, except
28 that recruitment above Step 1 shall not take place without the approval of
29 the Civil Service Commission. Under no circumstances shall positions
30 authorized by this Act be filled by using position titles, pay ranges and/or
31 compensation not in the regular government of Guam wage and classification
32 system. Recruitment in violation of this provision shall void the
33 appropriation made by this Act for the position and no funds shall be
34 expended for the salary of the incumbent of the position."

1 Section 11. Section 6 of P. L. 17-25, as amended by §51 of P. L.
2 17-26, is further amended to read:

3 "Section 6. The authorization granted to the Governor pursuant
4 to Section 4103.1 of the Government Code is suspended for Fiscal Year
5 1984, but there is appropriated from the General Fund for the purpose
6 hereinafter specified Six Million Seven Hundred Fifty-One Thousand
7 Dollars (\$6,751,000) in which the sum of Two Hundred Fifty-One
8 Thousand Dollars (\$251,000) shall be transferred to the Legislative
9 Operations Fund for the payment of cost-of-living allowance for the
10 Legislature from October 1, 1983 to December 31, 1983 and for
11 calendar year 1984. The appropriation of Six Million Five Hundred
12 Thousand Dollars (\$6,500,000) shall be used by the Director of
13 Administration to pay to persons whose salaries or wages are funded
14 by this Act the cost-of-living allowance established by Executive Order
15 82-22. The appropriation of Two Hundred Fifty-One Thousand Dollars
16 (\$251,000) shall be used by the Seventeenth Guam Legislature for the
17 payment of cost-of-living allowance established by Executive Order
18 82-22. The cost-of-living allowance shall be paid pro rata as a part of
19 the biweekly compensation of the Executive, Judicial and Legislative
20 employees."

21 Section 12. Subsection (g)(1) of Section 53588.01 of the Government
22 Code (12 GCA Section 2502) is amended to read:

23 "(g) 'cost' means:

24 (1) the cost of acquisition, construction, reconstruction,
25 repair, alteration, improvement and extension of any building,
26 structure, facility, including water transmission facilities or other
27 improvements and the cost of the purchase or acquisition of any
28 obligations referred to in the last sentence of paragraph (h) of
29 this section;"

30 Section 13. Subsection (h) of Section 53588.01 of the Government
31 Code (12 GCA Section 2502) is amended to read:

32 "(h) 'Project' means:

33 (1) (a) acquisition, construction, reconstruction, repair,
34 alteration, improvement and extension of any building, structure,

1 facility or other improvements, whether or not in existence or
2 under construction;

3 (b) purchase and installation of equipment and
4 machinery;

5 (c) acquisition and improvement of real estate and
6 the extension or provision of utilities, access roads and
7 other appurtenant facilities; and

8 (2) (a) acquisition, financing or refinancing of
9 inventory, raw materials, supplies, work in process or stock
10 in trade; or

11 (b) financing, refinancing or consolidation of
12 secured or unsecured debt, borrowings or obligations; or

13 (c) provision of financing for any other expense
14 incurred in the ordinary course of business; all of which are
15 to be used or occupied by any person in any enterprise
16 promoting employment, either for the manufacturing,
17 processing or assembly of materials or products, or for
18 research or office purposes, including but not limited to,
19 medical and other professional facilities or for industrial,
20 recreational, hotel or motel facilities, public utility and
21 warehousing, or for commercial and service purposes,
22 including but not limited to, retail outlets, retail shopping
23 centers, restaurant and retail food outlets, and any and all
24 other employment promoting enterprises including but not
25 limited to, motion picture and television studios and
26 facilities; and

27 (d) acquisition of any equity interest in, including
28 capital stock of any corporation; or any combination of the
29 above, which the Authority determines will:

30 (i) tend to maintain or provide gainful
31 employment opportunities within and for people of the
32 Territory, or

1
2
3
4
5
6
7
8
9
10

(ii) aid, assist and encourage the economic development and redevelopment of the Territory, or

(iii) maintain or increase the tax base on the Territory, or

(iv) maintain or diversify and expand employment promoting enterprises within the Territory.

(3) 'Project' also means the purchase or other acquisition of United States Government obligations, or such other obligations as the Authority may approve, producing a yield in excess of the interest on the Bonds issued to pay the cost of such obligations."