



Territory of Guam  
Territorio de Guam

OFFICE OF THE GOVERNOR  
LESIAN, MANA'AGATI  
AGANA, GUAM 96911

MAY 29 1992

The Honorable Joe T. San Agustin  
Speaker, Twenty-First Guam Legislature  
155 Hesler Street  
Agana, Guam 96910

REFER TO  
LEGISLATIVE SECRETARY

Dear Mr. Speaker:

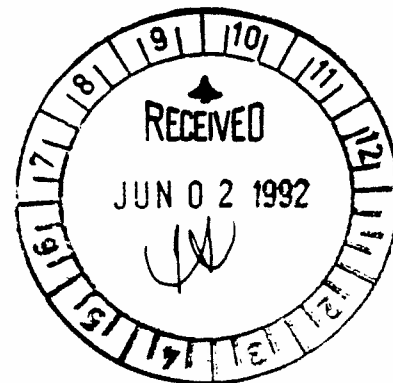
Transmitted herewith is Bill No. 269, which I have signed into law  
this date as Public Law 21-106.

Sincerely yours,

  
JOSEPH F. ADA  
Governor

210822

Attachment



Commonwealth Now!

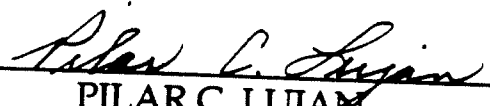
TWENTY-FIRST GUAM LEGISLATURE  
1992 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

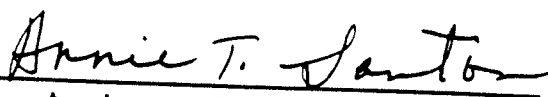
This is to certify that Substitute Bill No. 269 (COR), "AN ACT TO REPEAL AND REENACT CHAPTER 33, TITLE 5, GUAM CODE ANNOTATED, ON REGULATING NOTARIES PUBLIC," was on the 15th day of May, 1992, duly and regularly passed.

  
\_\_\_\_\_  
JOE T. SAN AGUSTIN  
Speaker

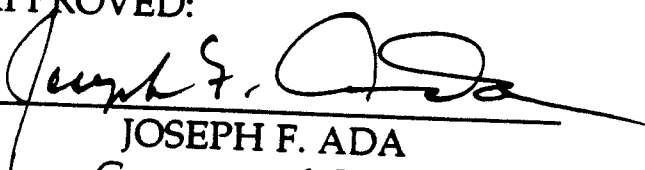
Attested:

  
\_\_\_\_\_  
PILAR C. LUJAN  
Senator and Legislative Secretary

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This Act was received by the Governor this 20<sup>th</sup> day of MAY, 1992,  
at 3:00 o'clock P.M.

  
\_\_\_\_\_  
Annie T. Santos  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
\_\_\_\_\_  
JOSEPH F. ADA  
Governor of Guam

Date: MAY 29 1992

Public Law No. 21-106

TWENTY-FIRST GUAM LEGISLATURE  
1991 (FIRST) Regular Session

Bill No. 269 (COR)

As substituted by the Committee on  
Judiciary and Criminal Justice and as  
further substituted by the Committee  
on Rules

Introduced by:

P. C. Lujan  
J. P. Aguon  
E. P. Arriola  
M. Z. Bordallo  
H. D. Dierking  
C. T. C. Gutierrez  
G. Mailloux  
D. Parkinson  
J. T. San Agustin  
F. R. Santos  
D. L. G. Shimizu  
J. G. Bamba  
A. C. Blaz  
D. F. Brooks  
E. R. Dueñas  
E. M. Espaldon  
M. D. A. Manibusan  
M. J. Reidy  
M. C. Ruth  
T. V. C. Tanaka  
A. R. Unpingco

AN ACT TO REPEAL AND REENACT CHAPTER 33,  
TITLE 5, GUAM CODE ANNOTATED, ON  
REGULATING NOTARIES PUBLIC.

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

2 Section 1. Chapter 33 of Title 5, Guam Code Annotated, is repealed

1 and reenacted to read:

2 "Chapter 33  
3 NOTARIES PUBLIC

4 Article 1

5 Implementation

6 §33101. Short title. This Chapter shall be known and may be cited as  
7 the "Model Notary Law".

8 §33102. Purposes. This Chapter shall be construed and applied to  
9 advance its underlying purposes, which are:

- 10 1. To promote, serve, and protect the public interest;  
11 2. To clarify and modernize the law governing notaries; and  
12 3. To make uniform notarial laws among the jurisdictions  
13 enacting it.

14 §33103. Prospective effect. The existing bond, seal, length of  
15 commission term, and liability of current notaries commissioned before this  
16 Chapter's effective date may not be invalidated, modified, or terminated by  
17 this Chapter, but those notaries shall comply with this Chapter in performing  
18 notarizations and in applying for new commissions.

19 §33104. Definitions. As used in this Chapter:

20 (1) "Acknowledgment" means a notarial act in which a notary certifies  
21 that a signer, whose identity is proven on the basis of satisfactory evidence,  
22 has admitted, in the notary's presence, having signed a document voluntarily  
23 for its stated purpose.

24 (2) "Commission" means to empower to perform notarial acts and the  
25 written authority to perform those acts.

26 (3) "Copy certification" means a notarial act in which a notary certifies

1 having made a photocopy of a document that is neither a public record nor  
2 publicly recordable.

3 (4) "Jurat" means a notarial act in which a notary certifies that a signer,  
4 whose identity is proven on the basis of satisfactory evidence, has made, in  
5 the notary's presence, a voluntary signature and taken an oath or affirmation  
6 vouching for the truthfulness of the signed document.

7 (5) "Notarial act" and "notarization" mean any act that a notary is  
8 empowered to perform under §33301 of this Chapter.

9 (6) "Notarial certificate" and "certificate" mean that part of or  
10 attachment to a notarized document for completion by the notary and bearing  
11 the notary's signature and seal.

12 (7) "Notary Public" and "notary" mean any person commissioned to  
13 perform notarial acts under this Chapter.

14 (8) "Oath and affirmation" mean a notarial act or part thereof in which  
15 a notary certifies that a person made a vow in the presence of the notary on  
16 penalty of perjury, with reference made to a Supreme Being for an oath.

17 (9) "Official misconduct" means: (i) a notary's performance of or  
18 failure to perform any act prohibited or mandated, respectively, by this  
19 Chapter or by any other law in connection with a notarization; or (ii) a  
20 notary's performance of a notarial act in a manner found by the Attorney  
21 General to be negligent or against the public interest.

22 (10) "Satisfactory evidence of identity" means identification of an  
23 individual based on: (i) a current passport or (ii) an official identification  
24 issued by a federal or state government with the individual's photograph and  
25 signature.

26 (11) "State" includes any state of the United States, any United States

1 territory, possession or commonwealth, and the District of Columbia.

2 §33105. **Effective date.** This Chapter shall take effect ninety (90) days  
3 following its enactment into law. Any notary public who is commissioned  
4 prior to the effective date of this Chapter shall continue to exercise the duties  
5 and responsibilities until his or her commission expires. Subsequent  
6 application for another commission shall be made in compliance with the  
7 provisions of this Chapter.

8 **Article 2**

9 **Commissioning**

10 **Part 1**

11 §33201. **Commissioning.** (a) Except as provided in subsection (c), the  
12 Attorney General shall commission as a notary any qualified person who  
13 submits an application in accordance with this Chapter.

14 (b) A person qualified for a notarial commission must:

15 (1) Be at least eighteen (18) years of age;

16 (2) Reside on Guam;

17 (3) Read and write English;

18 (4) Be a citizen of the United States;

19 (5) Pass a written examination as required under §33212 of this  
20 Chapter;

21 (6) Submit an application containing no significant  
22 misstatement or omission of fact.

23 (c) The Attorney General may deny an application based on:

24 (1) The applicant's conviction of a crime involving dishonesty  
25 or moral turpitude;

26 (2) Revocation, suspension, or restriction of a notarial

1 commission or professional license issued to the applicant by this  
2 territory or any other state; or

3 (3) The applicant's official misconduct as defined in §33104 of  
4 this Chapter whether or not disciplinary action resulted.

5 **§33202. Jurisdiction and term.** A person commissioned as a notary by  
6 the Attorney General may perform notarial acts in Guam for a term of four  
7 (4) years, **unless** the notary's commission is revoked under §33510 or the  
8 notary has resigned under §33552 of this Chapter.

9 **§33203. Bond.** No notarial commission may be issued unless the notary  
10 has produced, as part of the application, evidence that, upon commissioning,  
11 a bond is in force in the sum of One Thousand Dollars (\$1,000). The bond  
12 must be executed by a licensed surety for the whole term of the notary's  
13 commission, terminating on its expiration date, with payment of the bond's  
14 principal to any person conditioned upon the notary's misconduct as defined  
15 in §33104 of this Chapter.

16 **§33204. Recommissioning.** An applicant for recommissioning as a  
17 notary shall submit a new application and comply anew with the provisions  
18 of this Article 2.

## 19 Part 2 - Application

20 **§33210. Application.** Every application for a notarial commission must  
21 be made on forms provided by the Attorney General and include, at least:

- 22 (1) A statement of the applicant's personal qualifications;
- 23 (2) When required, an examination written by the applicant;
- 24 (3) A notarized declaration by the applicant;
- 25 (4) An application fee; and
- 26 (5) Evidence of the bond required by §33203 of this Chapter.





1 affirm) under penalty of perjury that the personal information in this  
2 application is true, complete, and correct; that I have read carefully  
3 the materials describing the duties of a notary in Guam; and that I  
4 will perform, to the best of my ability all notarial acts in accordance  
5 with law.

6 \_\_\_\_\_ (signature of applicant)"

7 (Notarial certificate as specified in §33452 of this Chapter.)

8 **§33214. Fees.** Every applicant for a notarial commission shall pay to  
9 the Treasurer of Guam a nonrefundable fee of Twenty-Five Dollars (\$25).

10 **§33215. Confidentiality.** Disciplinary information in an applicant's or  
11 notary's Statement of Personal Qualifications under paragraphs (4) and (5) of  
12 §33211 of this Chapter must be used by the Attorney General and designated  
13 territorial employees for the sole purpose of performing official duties under  
14 this Chapter and may not be disclosed to any person other than:

- 15 (1) The applicant;
- 16 (2) The applicant's authorized representative or surety;
- 17 (3) A representative of federal, territorial, state, municipal or  
18 city government acting in an official capacity; or
- 19 (4) A person specified by court order.

20 **Part 3 - Government employees**

21 **§33220. Government employees.** (a) The Attorney General may  
22 commission any number of government employees to act as notaries, but  
23 notaries so empowered may perform notarial acts only in the service of their  
24 respective government agencies. Such service includes the notarization, for  
25 members of the public, of any forms or statements which the government  
26 agency which employs the notary requires to be notarized before submission

1 to such agency.

2 (b) Notaries empowered under this section may perform notarial acts  
3 in any part of Guam for a term of four (4) years, and shall seek  
4 recommissioning by the Attorney General for each subsequent term.

5 (c) An applicant for a notarial commission under this section must meet  
6 the requirements in Part 2, Article 2 of this Chapter, except the application  
7 shall include a written declaration signed by the applicant's department or  
8 agency head stating that the commissioning is in the public interest. The fee  
9 imposed in §33214 of this Chapter is waived for employees of the government  
10 of Guam.

11 (d) The premium on the bond and costs of all notarial supplies for a  
12 notary empowered under this section must be paid from funds of the notary's  
13 government agency.

14 (e) No fees may be charged for notarial services performed by a notary  
15 empowered under this section.

16 (f) Upon leaving the employment of their government agencies,  
17 notaries empowered under this section shall resign their commissions  
18 immediately and dispose of their journals and seals under §§33553 and 33554  
19 of this Chapter.

20 (g) A notary empowered under this section shall comply with all  
21 provisions of this Chapter, unless otherwise specified in this section.

### 22 Article 3

### 23 Powers and Limitations

#### 24 Part 1 - Powers

25 §33301. Powers. A notary is empowered to perform the following  
26 notarial acts:

- 1 (1) Acknowledgments;
- 2 (2) Oaths and affirmations;
- 3 (3) Jurats; and
- 4 (4) Copy certifications.

5 **§33302. Disqualifications.** A notary is disqualified from performing a  
6 notarial acts if the notary:

7 (1) Is a signer of or named in the document that is to be  
8 notarized;

9 (2) Will receive directly from a transaction connected with the  
10 notarial act any commission, fee (except for attorneys), advantage,  
11 right, title, interest, cash, property, or other consideration exceeding  
12 in value the fees specified in §33310 of this Chapter; or

13 (3) Is related to the person whose signature is to be notarized  
14 as a spouse, sibling, or lineal ascendant or descendant.

15 **§33303. Impartiality.** (a) A notary may not influence a person to enter  
16 into or not to enter into a lawful transaction involving a notarial act by the  
17 notary.

18 (b) A notary shall perform notarial acts in lawful transactions for any  
19 requesting person who tenders the appropriate fee specified in §33310 of this  
20 Chapter.

21 **§33304. False certificate.** A notary may not execute a certificate  
22 containing a statement known by the notary to be false or perform any official  
23 action with intent to deceive or defraud.

24 **§33305. Testimonials.** A notary may not endorse or promote any  
25 product, service, contest, or other offering if the notary's title or seal is used  
26 in the endorsement or promotional statement.



1 **Provided**, however, that in no event may a Notary Public who is an employee  
2 of the government of Guam demand or receive any fee or compensation of  
3 any kind for performing any duty of a Notary Public during normal hours of  
4 work in his or her employment by the government.

5 (b) A notary may charge a travel fee when traveling to perform a  
6 notarial act if:

7 (1) The notary explains to the person requesting the notarial  
8 act that the travel fee is separate from the notarial fee in subsection  
9 (a) and is neither specified nor mandated in law; and

10 (2) The notary and the person requesting the notarial act agree  
11 upon the travel fee in advance.

12 (c) The Attorney General shall annually review the fees set out in  
13 paragraph (a) of this section, and, after such review, if the Attorney General  
14 determines that such fees should be altered, the Attorney General may do so  
15 in the manner and under the procedures set out in the Administrative  
16 Adjudication Law.

17 **§33311. Notice of fees.** Notaries shall display an English language  
18 schedule of fees for notarial acts, as specified in §33310(a) of this Chapter. No  
19 part of any displayed notarial fee schedule may be printed in smaller than 10-  
20 point type.

21 **Article 4**

22 **Journal and Seal**

23 **Part 1 - Journal**

24 **§33401. Journal.** A notary shall keep, maintain, protect as a public  
25 record, and provide for lawful inspection a chronological, permanently  
26 bound, official journal of notarial acts, containing numbered pages.

1           **§33402. Entries in journal.** (a) For every notarial act, the notary shall  
2 record in the journal at the time of notarization at least the following:

3           (1) The date and time of day of the notarial act;

4           (2) The type of notarial act;

5           (3) A description of the document or proceeding;

6           (4) The signature and printed name and address of each  
7 person for whom a notarial act is performed;

8           (5) The evidence of identity of each person for whom a  
9 notarial act is performed, in the form of a description of the  
10 identification document, its issuing agency, its serial or identification  
11 number, and the date of its issuance if expired;

12           (6) The fee, if any, charged for the notarial act; and

13           (7) The address where the notarization was performed if not  
14 the notary's business address.

15           (b) A notary shall retain as an official record a duplicate photocopy of  
16 each certified copy.

17           (c) If refusing to perform or complete a notarial act, the notary shall  
18 record in the journal the reasons other than lack of proof of identification.

19           **§33403. Signature in journal.** At the time of notarization, the notary's  
20 journal must be signed, as applicable, by:

21           (1) The person for whom a notarial act is performed; and

22           (2) The two (2) witnesses to a signature by mark of a document  
23 that is notarized.

24           **§33404. Inspection, copying and disposal of journal.** (a) A journal of  
25 notarial acts is an official public record that may be inspected in the notary's  
26 presence by an individual whose identity is personally known to the notary or

1 proven on the basis of satisfactory evidence, who specifies the notarial act  
2 sought, and who signs the notary's journal.

3 (b) Upon request in compliance with subsection (a), the notary shall  
4 provide a photocopy of an entry in the journal at a cost of not more than Five  
5 Dollars (\$5) per photocopy. If a certified photocopy is requested, the cost is as  
6 specified in §33210 of this Chapter.

7 (c) A notary shall safeguard the journal and other notarial records as  
8 valuable public documents and never destroy them, except at the direction of  
9 the Attorney General.

10 (d) The journal must be kept in the exclusive custody of the notary, and  
11 may not be used by any other notary or surrendered to an employer upon  
12 termination of employment.

13 (e) During the first week of January of each year or upon resignation,  
14 revocation, or expiration of a notarial commission, or death of the notary,  
15 whichever comes first, the notarial journal must be delivered by personal  
16 service, certified mail or other means providing a receipt to the Attorney  
17 General's office.

## 18 Part 2 - Signature and Seal

19 §33410. Official signature. In completing a notarial act, a notary shall  
20 sign on the notarial certificate exactly and only the name indicated on the  
21 notary's commission.

22 §33411. Official seal. (a) A notary shall keep an official notarial seal  
23 that is the exclusive property of the notary and that may not be used by any  
24 other person or surrendered to an employer upon termination of  
25 employment.

26 (b) Upon resignation, revocation, or expiration of a notarial

1 commission, or death of the notary, any seal having the expiration date of the  
2 commission on it must be destroyed in accordance with Article 7 of this  
3 Chapter. A new seal must be obtained, under §33413 of this Chapter, for any  
4 new commission. The notary need not destroy the embossing seal, if any, nor  
5 obtain a new embossing seal, if there is not time lapse between the expiration  
6 of one commission and the granting of another commission.

7 **§33412. Seal impression.** (a) Near the notary's official signature on a  
8 notarial certificate, the notary shall affix in black ink a sharp, legible, and  
9 photographically reproducible impression of the notarial seal that must  
10 include the following elements:

11 (1) The notary's name exactly as is indicated on the  
12 commission;

13 (2) The words "Notary Public, in and for the Territory of  
14 Guam, U.S.A." and "My commission expires (commission expiration  
15 date)";

16 (3) The address of the notary's business or residence; and

17 (4) A rectangular border surrounding the required words.

18 (b) Illegible information within a seal impression may be typed or  
19 printed legibly by the notary adjacent to but not within the impression.

20 (c) An embossed seal impression that is not photographically  
21 reproducible shall be used in addition to but not in lieu of the seal described in  
22 subsection (a).

23 **§33413. Obtaining a seal.** (a) A vendor may not provide a notary seal,  
24 either inking or embossing, to a person claiming to be a notary, unless the  
25 person presents the following documents, which the vendor must retain for a  
26 period of three (3) years: A photocopy of the person's notarial commission,



1 attached to a notarized declaration substantially as follows:

2 "Application for Notary Seal

3 I, \_\_\_\_\_ (name of person requesting the seal), declare  
4 that I am a Notary Public duly commissioned by the Territory of  
5 Guam, with a commission starting date of \_\_\_\_\_ a  
6 commission expiration date of \_\_\_\_\_ and a  
7 commission number of \_\_\_\_\_. As evidence, I attach to this  
8 paper a photocopy of my commission.

9 \_\_\_\_\_ (signature of person requesting the seal)"

10 (b) A notary applying for a seal as a result of a name change shall  
11 present a copy of the Confirmation of Notary's Name Change from the  
12 Attorney General in place of the Application for a Notary Seal.

13 (c) A vendor who fails to keep a document specified in this section is  
14 guilty of a petty misdemeanor.

15 Article 5

16 Certificates

17 §33450. General acknowledgment. A notary shall use a certificate in  
18 substantially the following form in notarizing the signature or mark of  
19 persons acknowledging for themselves or as partners, corporate officers,  
20 attorneys in fact, or in other representative capacities, or as otherwise  
21 authorized by statute:

22 "Territory of Guam.

23 On this \_\_\_\_ day of \_\_\_\_\_, before me, the  
24 undersigned notary, personally appeared, \_\_\_\_\_ the  
25 person(s) whose name(s) (is) (are) signed on the preceding or  
26 attached document, and acknowledged to me that (he) (she) (they)

1 signed it voluntarily for its stated purpose(.

2 (as partner for \_\_\_\_\_, a partnership.)

3 (as \_\_\_\_\_ for \_\_\_\_\_, a corporation.)

4 (as attorney in fact for \_\_\_\_\_, the principal.)

5 (as \_\_\_\_\_ for \_\_\_\_\_, (a) (the) \_\_\_\_\_.)

6 (by mark before \_\_\_\_\_ and \_\_\_\_\_, subscribing witnesses.)

7 \_\_\_\_\_  
8 (official signature and seal of notary)"

9 §33452. Jurat. A notary shall use a jurat certificate in substantially the  
10 following form in notarizing a signature on an affidavit, deposition, or other  
11 sworn or affirmed written declaration:

12 "Territory of Guam.

13 Subscribed and sworn to before me this \_\_\_\_\_ day of  
14 \_\_\_\_\_, 19\_\_\_\_, by \_\_\_\_\_.

15 \_\_\_\_\_  
16 (official signature and seal of notary)"

17 §33453. Certified copy. A notary shall use a certificate in substantially  
18 the following form in notarizing a certified copy:

19 "Territory of Guam.

20 On this \_\_\_\_ day of \_\_\_\_\_, I certify that the  
21 preceding or attached document, and the duplicate retained by me  
22 as a notarial record, are true, exact, (complete) (stated portion of  
23 \_\_\_\_\_ [named document]), and unaltered photocopies  
24 made by me of \_\_\_\_\_ (description of the document),  
25 (presented to me by the document's custodian, \_\_\_\_\_).  
26 (held in my custody as a notarial record,) and that, to the best of

1 my knowledge, are neither public records nor publicly recordable  
2 documents, certified copies of which are available from an official  
3 source other than a notary.  
4

---

(official signature and seal of notary)"

**Article 6**

**Liability and Remedies**

**Part 1 - Liability**

9 **§33501. Liability of notary, surety and employer.** (a) A notary is liable  
10 to any person for all damages proximately caused that person by the notary's  
11 official misconduct in performing a notarization.

12 (b) A surety for a notary's bond is liable to any person for damages  
13 proximately caused that person by the notary's official misconduct in  
14 performing a notarization, but this liability may not exceed the penalty of the  
15 bond or of any remaining bond funds that have not been expended on other  
16 claimants. Regardless of the number of claimants, a surety's total liability  
17 may not exceed the penalty of the bond.

18 (c) An employer of a notary is liable to any person for all damages  
19 proximately caused that person by the notary's official misconduct in  
20 performing a notarization related to the employer's business, only if the  
21 employer directed, encouraged, consented to, or approved the notary's  
22 misconduct, either in the particular transaction, or as implied by previous  
23 actions in at least one (1) similar transaction.

24 (d) An employer of a notary is liable for all damages recovered from the  
25 notary as a result of official misconduct that was coerced by threat of the  
26 employer, if the threat, such as of demotion or dismissal, was made in

1 reference to the particular notarization, or implied by the employer's  
2 previous action in at least one (1) similar transaction. In addition, the  
3 employer is liable to the notary for damages caused the notary by demotion,  
4 dismissal, or other action resulting from the notary's refusal to commit  
5 official misconduct.

6 (e) If the employer is the government of Guam, damages may be  
7 recovered only through the procedures of the Government Claims Act.

8 **§33502. Proximate cause.** Recovery of damages against a notary,  
9 surety, or employer does not require that the notary's misconduct be the sole  
10 proximate cause of the damages.

#### 11 **Part 2 - Revocation**

12 **§33510. Revocation.** (a) The Attorney General may revoke a notarial  
13 commission on any ground for which an application for a notarial  
14 commission may be denied under §33201 of this Chapter.

15 (b) Resignation or expiration of a notarial commission does not  
16 terminate or preclude an investigation into a notary's conduct by the Attorney  
17 General, who may pursue the investigation to a conclusion, whereupon it  
18 must be made a matter of public record whether or not the findings would  
19 have been grounds for revocation.

20 **§33511. Other remedies.** (a) The Attorney General may deliver a  
21 written Official Warning to Cease Misconduct to any notary whose actions  
22 are judged to be official misconduct under §33104 of this Chapter.

23 (b) The Attorney General may seek a court injunction to prevent a  
24 person from violating any provision of this Chapter.

25 **§33512. Criminal prosecution.** A notary who knowingly and  
26 repeatedly performs or fails to perform any act prohibited or mandated

1 respectively by this Chapter is guilty of a third degree felony. A notary who  
2 knowingly performs a notarization for a person who does not appear before  
3 the notary or at the notary's office is guilty of a third degree felony.

4 **§33513. Additional remedies not prevented.** The remedies of this  
5 Chapter supplement other remedies and penalties provided by law.

### 6 Part 3 - Willful Crimes

7 **§33520. Impersonation.** Any person not a notary who knowingly acts  
8 as or otherwise impersonates a notary is guilty of a third degree felony.

9 **§33521. Wrongful possession.** Any person who knowingly obtains,  
10 conceals, defaces, or destroys the seal, journal, or official records of a notary  
11 is guilty of a third degree felony.

12 **§33522. Improper influence.** Any person who knowingly solicits,  
13 coerces, or in any way influences a notary to commit official misconduct is  
14 guilty of a third degree felony.

### 15 Article 7

16 **§33550. Change of address.** Within thirty (30) days after the change of  
17 a notary's business or residence address, the notary shall deliver to the  
18 Attorney General, by certified mail or other means providing a receipt, a  
19 signed notice of the change, giving both old and new addresses.

20 **§33551. Change of name.** (a) A notary with a change of name shall  
21 deliver to the Attorney General a signed notice of the change, giving both old  
22 and new names and the effective date of the new name.

23 (b) Starting on the effective date of the change, a notary with a new  
24 name officially shall sign that name on all notarial certificates, but only after  
25 the following steps have been completed:

26 (1) The notice described in subsection (a) of this section has

1        been delivered;

2            (2) A Confirmation of Notary's Name Change has been  
3        received from the Attorney General;

4            (3) A new seal bearing the new name exactly as in the  
5        Confirmation has been obtained; and

6            (4) The surety for the notary's bond has been informed in  
7        writing.

8        **§33552. Lost journal or seal.** Within ten (10) days after the loss or theft  
9        of any official journal or seal, the notary shall deliver to the Attorney  
10       General, by certified mail or other means providing a receipt, a signed notice  
11       of the loss or theft, and inform the appropriate law enforcement agency in the  
12       case of theft.

13       **§33553. Resignation.** (a) A notary who resigns a notarial commission  
14       shall deliver to the Attorney General, by certified mail or other means  
15       providing a receipt, a notice indicating the effective date of resignation.

16       **§33554. Disposition of seal and journal.** (a) When a notarial  
17       commission is resigned, revoked, or expires, the notary shall:

18            (1) As soon as reasonably practical, destroy the official seal;  
19        and

20            (2) Within thirty (30) days of the after the effective date of  
21        resignation, revocation or expiration, deliver to the Attorney  
22        General, by certified mail or other means providing a receipt, the  
23        notarial journal and records.

24       **§33555. Death.** If a notary dies during the term of commission, the  
25       notary's heirs or legal representative, as soon as reasonably practical after  
26       death, shall deliver to the Attorney General by certified mail or other means

1 providing a receipt (i) a notice of the date of death, and (ii) the notarial  
2 journal and records.

3 **Article 8**  
4 **Authentication**

5 **§33601. Evidence of authenticity of notarial act.** (a) The authenticity  
6 of the official notarial seal and signature of a notary of Guam may be  
7 evidenced by:

8 (1) A certificate of authority from the Attorney General,  
9 authenticated as necessary; or

10 (2) An apostille from the Attorney General in the form  
11 prescribed by the Hague Convention Abolishing the Requirement of  
12 Legalization for Foreign Public Documents of October 5, 1961.

13 (3) An apostille as specified by the Hague Convention must be  
14 attached to any document requiring authentication that is sent to a  
15 nation that has signed and ratified the Convention.

16 **§33601. Certificate of Authority.** A certificate of authority evidencing  
17 the authenticity of the official notarial seal and signature of a notary of  
18 Guam must be in substantially the following form:

19 "Certificate of Authority for a Notarial Act  
20 I, \_\_\_\_\_ (name, Attorney General of the Territory of Guam,  
21 U.S.A.) certify that (name of notary), the person named in the seal  
22 and signature on the attached document(,) is a notary public for the  
23 Territory of Guam, U.S.A., and was authorized to act as such at the  
24 time of the document's notarization.

25 To verify this Certificate of Authority for a Notarial Act, I have  
26 affixed below my signature and seal of office this \_\_\_\_\_ day

1 of \_\_\_\_\_."

2 §33603. **Apostille.** An apostille prescribed by the Hague Convention, as  
3 cited in 28 U.S.C.A. in the annotations to Rule 44 of the Federal Rules of Civil  
4 Procedure, must be in the form of a square with sides at least nine (9)  
5 centimeters long and contain exactly the following wording:

6 "APOSTILLE

7 (Convention de La Haye du 5 octobre 1961)

8 1. Country: United States of America

9 This public document

10 2. has been

11 signed by

12 3. acting in

13 the capacity of \_\_\_\_\_

14 4. bears the seal/stamp of \_\_\_\_\_

15 CERTIFIED

16 at \_\_\_\_\_ 6. the \_\_\_\_\_

17 7. by \_\_\_\_\_

18 8. No. \_\_\_\_\_

19 9. Seal/Stamp 10. Signature

20 \_\_\_\_\_"

21 **Article 9**

22 **Officers in the Armed Forces**

23 **Authorized to Act as Notaries**

24 §33701. **Officers may perform notarial acts.** Any commissioned officer  
25 of the Armed Forces of the United States, while on active duty, who is  
26 authorized to administer oaths by the Uniform Code of Military Justice, may



1 administer oaths and affirmations, take depositions, affidavits and  
2 acknowledgements of deeds, grants, transfers and other instruments of  
3 writing, and powers of attorney, of any person who for the time being is on  
4 active duty with the Armed Forces of the United States, in the same manner  
5 as a Notary Public.

6 Any oath or affirmation administered, or deposition or affidavit taken,  
7 or acknowledgement certified by such officer hereunder, if otherwise in  
8 accordance with law, shall be effectual for all purposes as if administered,  
9 taken or certified by a Notary Public appointed and commissioned under this  
10 Chapter."

11 **Section 2. Effective date.** This Act shall go into effect ninety (90) days  
12 after its approval, except that the Attorney General shall forthwith prepare  
13 the necessary examinations and cause to be promulgated the necessary rules  
14 and regulations governing the procedures set out in this Act.



**Senator Pilar Cruz Lujan  
Twenty-First Guam Legislature**

**Legislative Secretary**

**Committee on Judiciary and Criminal Justice  
Chairman**

---

March 10, 1992

The Honorable Joe T. San Agustin  
Speaker, Twenty-First Guam Legislature  
155 Hesler St.  
Agana, Guam 96910

VIA: Chairperson, Committee on Rules

Dear Mr. Speaker:

The Committee on Judiciary and Criminal Justice, to which was referred Bill No. 269 wishes to report its findings and recommendations for passage of Substitute Bill 269.

The Committee voting record is as follows:

<u>12</u>	TO PASS
<u>0</u>	NOT TO PASS
<u>0</u>	ABSTAIN
<u>0</u>	TO PLACE IN INACTIVE FILE

A copy of the Committee report and all pertinent documents are attached for your information.

Sincerely,

*Pilar C. Lujan*  
PILAR C. LUJAN  
Chairman

TWENTY-FIRST GUAM LEGISLATURE  
1991 (FIRST) Regular Session

Substitute Bill No. 269  
As substituted by the Committee  
on Judiciary & Criminal Justice

Introduced by:

P. C. Lujan  
J. P. Aguon

---

AN ACT TO REPEAL AND REENACT 5 GCA CHAPTER 33,  
ARTICLES 1 THROUGH 8 WITH RESPECT TO REGULATING  
NOTARIES PUBLIC.

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

Section 1. Title 5 GCA, Chapter 33 is repealed and reenacted to  
read:

**"Chapter 33**  
**NOTARIES PUBLIC**  
**Article 1**  
**Implementation**

**§33101. Short Title.** This Article may be known as the Model  
Notary Law.

**§33102. Purposes.** This Chapter shall be construed and applied to  
advance its underlying purposes, which are:

1. To promote, serve, and protect the public interest;
2. to clarify and modernize the law governing notaries;  
and
3. to make uniform notarial laws among the jurisdictions  
enacting it.

**§33103. Prospective Effect.** The existing bond, seal, length of  
commission term, and liability of current notaries commissioned before  
this Chapter effective date may not be invalidated, modified, or  
terminated by this Chapter, but those notaries shall comply with this  
Chapter in performing notarizations and in applying for new  
commissions.

**§33104. Definitions.** (1) **Acknowledgment** means a notarial act in  
which a notary certifies that a signer, whose identity is personally  
known to the notary or proven on the basis of satisfactory evidence,

1 has admitted, in the notary's presence, having signed a document  
2 voluntarily for its stated purpose.

3 (2) **Commission** means to empower to perform notarial acts and the  
4 written authority to perform those acts.

5 (3) **Copy certification** means a notarial act in which a notary  
6 certifies having made a photocopy of a document that is neither a  
7 public record nor publicly recordable.

8 (4) **Jurat** means a notarial act in which a notary certifies that a  
9 signer, whose identity is personally known to the notary or proven on  
10 the basis of satisfactory evidence, has made, in the notary's  
11 presence, a voluntary signature and taken an oath or affirmation  
12 vouching for the truthfulness of the signed document.

13 (5) **Notarial act and notarization** mean any act that a notary is  
14 empowered to perform under §33301.

15 (6) **Notarial certificate and certificate** mean that part of or  
16 attachment to a notarized document for completion by the notary and  
17 bearing the notary's signature and seal.

18 (7) **Notary Public and notary** mean any person commissioned to  
19 perform notarial acts under this Chapter.

20 (8) **Oath and affirmation** mean a notarial act or part thereof in  
21 which a notary certifies that a person made a vow in the presence of  
22 the notary on penalty of perjury, with reference made to a Supreme  
23 Being for an oath.

24 (9) **Official misconduct** means: (i) a notary's performance of or  
25 failure to perform any act prohibited or mandated respectively by this  
26 Chapter or by any other law in connection with a notarization; or (ii)  
27 a notary's performance of a notarial act in a manner found by the  
28 Attorney General to be negligent or against the public interest.

29 (10) **Personal knowledge of identity** means familiarity with an  
30 individual resulting from interactions with that individual over a  
31 period of time sufficient to eliminate every reasonable doubt that the  
32 individual has the identity claimed.

33 (11) **Satisfactory evidence of identity** means identification of an  
34 individual based on: (i) a current passport or an official  
35 identification issued by a federal or state government with the

1 individual's photograph and signature

2 (12) State includes any state of the United States, and any United  
3 States territory, possession or commonwealth and the District of  
4 Columbia.

5 **§33105. Effective Date.** This Act shall take effect ninety days  
6 following its enactment into law. Any notary public who is  
7 commissioned prior to the effective date of this, shall continue to  
8 exercise the duties and responsibilities until him or her commission  
9 expires. Subsequent application for another commission shall be in  
10 compliance with the provisions of this Act.

11 **Article 2**

12 **Commissioning**

13 **Part 1**

14 **§33201. Commissioning.** (a) Except as provided in subsection (c),  
15 the Attorney General shall commission as a notary any qualified person  
16 who submits an application in accordance with this Chapter.

17 (b) A person qualified for a notarial commission must:

18 (1) be at least 18 years of age;

19 (2) reside on Guam;

20 (3) read and write English;

21 (4) be a U.S. citizen;

22 (5) after one is required, pass a written examination under  
23 §33203; and

24 (6) submit an application containing no significant  
25 misstatement or omission of fact.

26 (c) The Attorney General may deny an application based on:

27 (1) the applicant's conviction of a crime involving dishonesty  
28 or moral turpitude;

29 (2) revocation, suspension, or restriction of a notarial  
30 commission or professional license issued to the  
31 applicant by this territory or any other state; or

32 (3) the applicant's official misconduct as defined in §33104,  
33 whether or not disciplinary action resulted.

34 **§33202. Jurisdiction and Term.** A person commissioned as a notary

1 by the Attorney General may perform notarial acts in Guam for a term  
2 of four years, unless the commission is revoked under §33510 or  
3 resigned under §33552.

4 **§33203. Bond.** No notarial commission may be issued unless the  
5 notary has produced, as part of the application, evidence that, upon  
6 commissioning, a bond is in force in the sum of One Thousand Dollars  
7 (\$1,000.00). The bond must be executed by a licenses surety, for the  
8 whole term of the notary's commission, terminating on its expiration  
9 date, with payment of bond funds to any person conditioned upon the  
10 notary's misconduct as defined in §33104.

11 **§33204. Recommissioning.** An applicant for recommissioning as a  
12 notary shall submit a new application and comply anew with the  
13 provisions of Article 2.

14 **Part 2 - Application**

15 **§33210. Application.** Every application for a notarial commission  
16 must be made on forms provided by the Attorney General and include, at  
17 least:

- 18 (1) a statement of the applicant's personal qualifications;  
19 (2) when required, an examination written by the applicant;  
20 (3) a notarized declaration by the applicant;  
21 (4) an application fee; and  
22 (5) evidence of the bond required by §33203.

23 **§33211. Statement of Personal Qualifications.** The application  
24 must state, at least:

- 25 (1) the applicant's age;  
26 (2) the applicant's residence address or, if not a resident,  
27 business address in Guam, and, if not a citizen of the  
28 United States, the applicant's alien status.  
29 (3) that the applicant can read and write English;  
30 (4) all criminal convictions of the applicant, including any  
31 pleas of guilt and nolo contendere; and  
32 (5) all issuances, denials, revocations, suspensions,  
33 restrictions and resignations of a notarial commission or  
34 other professional license involving the applicant in Guam  
35 or in any state.



- 1 (1) the applicant;
- 2 (2) the applicant's authorized representative or surety;
- 3 (3) a representative of federal, territorial, state, county or
- 4 city government acting in an official capacity; or
- 5 (4) a person specified by court order.

6 **Part 3 - Government Employees**

7 **§33220. Government Employees.** (a) The Attorney General may  
8 commission any number of government employees to act as notaries, but  
9 notaries so empowered may perform notarial acts only in the service of  
10 their respective government agencies. Such service includes the  
11 notarization, for members of the public, of any forms or statements  
12 which the government agency which employs the notary requires to be  
13 notarized before submission to such agency.

14 (b) Notaries empowered under this section may perform notarial  
15 acts in any part of Guam for a term of four years, and shall seek  
16 recommissioning by the Attorney General for each subsequent term.

17 (c) An applicant for a notarial commission under this section  
18 must meet the requirements in Article 2, Part 2, except the  
19 application shall include a written declaration signed by the  
20 applicant's department or agency head stating that the commissioning  
21 is in the public interest; and the fee in §33214 is waived for  
22 employees of the government of Guam.

23 (d) The premium on the bond and costs of all notarial supplies  
24 for a notary empowered under this section must be paid from funds of  
25 the notary's government agency.

26 (e) No fees may be charged for notarial services performed by a  
27 notary empowered under this section.

28 (f) Upon leaving the employment of their government agencies,  
29 notaries empowered under this section shall resign their commissions  
30 immediately under §33553 and dispose of their journals and seals under  
31 §33554.

32 (g) A notary empowered under this section shall comply with all  
33 provisions of this Chapter, unless otherwise specified in this  
34 section.



Article 3

Powers and Limitations

Part 1 - Powers

1  
2  
3  
4       **§33301. Powers.** A notary is empowered to perform the following  
5 notarial acts:

- 6           (1) acknowledgments;  
7           (2) oaths and affirmations;  
8           (3) jurats; and  
9           (4) copy certifications.

10       **§33302. Disqualifications.** A notary is disqualified from  
11 performing a notarial act if the notary:

- 12           (1) is a signer of or named in the document that is to be  
13           notarized;  
14           (2) will receive directly from a transaction connected with the  
15           notarial act any commission, fee (except for Attorneys),  
16           advantage, right, title, interest, cash, property, or other  
17           consideration exceeding in value the fees specified in  
18           §33310; or  
19           (3) is related to the person whose signature is to be notarized  
20           as a spouse, sibling, or lineal ascendant or descendant.

21       **§33303. Impartiality.** (a) A notary may not influence a person to  
22 enter into or not to enter into a lawful transaction involving a  
23 notarial act by the notary.

24           (b) A notary shall perform notarial acts in lawful transactions  
25 for any requesting person who tenders the appropriate fee specified in  
26 §33310.

27       **§33304. False Certificate.** A notary may not execute a certificate  
28 containing a statement known by the notary to be false or perform any  
29 official action with intent to deceive or defraud.

30       **§33306. Testimonials.** A notary may not endorse or promote any  
31 product, service, contest, or other offering if the notary's title or  
32 seal is used in the endorsement or promotional statement.

33       **§33306. Unauthorized Practice of Law.** (a) A non-attorney notary  
34 may complete but may not select notarial certificates, and may not  
35 assist another person in drafting, completing, selecting, or  
36

1 understanding a document or transaction requiring a notarial act.

2 (b) This section does not preclude a notary who is duly qualified  
3 in a particular profession from giving advice relating to matters in  
4 that professional field.

5 (c) A notary may not make representations to have powers,  
6 qualifications, rights or privileges that the office of notary does  
7 not have, including the power to counsel on immigration matters.

8 (d) A non-attorney notary who advertises notarial services in a  
9 language other than English shall include in the advertisement,  
10 notice, or sign the following in the same language:

11 (1) The statement prominently displayed: "I am not an attorney  
12 and have no authority to give advice on immigration or other legal  
13 matters", and

14 (2) the fees for notarial acts specified in §33310(a).

15 (e) A notary may not use the term **notario publico** or any equivalent  
16 non-English term in any business card, advertisement, notice or sign.

17 **Part 2 - Fees**

18 **§33310. Fees.** (a) Subject to the provisions contained in this  
19 section, every Notary Public shall be entitled to demand and receive  
20 the following fees:

- 21 (1) For taking acknowledgement or proof of a deed or other  
22 instrument, to include the seal and writing of the  
23 certificate, for the first two signatures, Six Dollars  
24 (\$6.00) each; and for each additional signature, Five Dollar  
25 (\$5.00).
- 26 (2) For administering an oath or affirmation, Six Dollars  
27 (\$6.00).
- 28 (3) For every certificate, of a certified true copy, and the  
29 seal, Six Dollars (\$6.00);

30 Provided, however, that in no event may a Notary Public who is an  
31 employee of the government demand or receive any fee or compensation  
32 of any kind for performing any duty of a Notary Public during normal  
33 hours of work in his employment by the government.

1 (b) A notary may charge a travel fee when traveling to perform a  
2 notarial act if:

- 3 (1) the notary explains to the person requesting the notarial  
4 act that the travel fee is separate from the notarial fee in  
5 subsection (a) and is neither specified nor mandated in law;  
6 and  
7 (2) the notary and the person requesting the notarial act agree  
8 upon the travel fee in advance.

9 **§33311. Notice of Fees.** Notaries shall display an English language  
10 schedule of fees for notarial acts, as specified in §33310(a). No part  
11 of any displayed notarial fee schedule may be printed in smaller than  
12 10-point type.

13 **Article 4**

14 **Journal and Seal**

15 **Part 1 - Journal**

16 **§33401. Journal.** A notary shall keep, maintain, protect as a public  
17 record, and provide for lawful inspection a chronological, permanently  
18 bound, official journal of notarial acts, containing numbered pages.

19 **§33402. Entries in Journal.** (a) For every notarial act, the  
20 notary shall record in the journal at the time of notarization at  
21 least the following:

- 22 (1) the date and time of day of the notarial act;  
23 (2) the type of notarial act;  
24 (3) a description of the document or proceeding;  
25 (4) the signature and printed name and address of each person  
26 for whom a notarial act is performed;  
27 (5) the evidence of identity of each person for whom a notarial  
28 act is performed, in the form of either: (i) a statement  
29 that the person is personally known to the notary, (ii) a  
30 description of the identification document, its issuing  
31 agency, its serial or identification number, and the date of  
32 its issuance or expiration.

- 1 (6) the fee, if any, charged for the notarial act; and
- 2 (7) the address where the notarization was performed if not the
- 3 notary's business address.

4 (b) A notary shall retain as an official record a duplicate  
5 photocopy of each certified copy.

6 (c) In refusing to perform or complete a notarial act for reasons  
7 other than lack of proof of identification.

8 **§33403. Signature in Journal.** At the time of notarization, the  
9 notary's journal must be signed, as applicable, by:

- 10 (1) the person for whom a notarial act is performed; and
- 11 (2) the two witnesses to a signature by mark of a document that
- 12 is notarized.

13 **§33404. Inspection, Copying and Disposal of Journal.** (a) A  
14 journal of notarial acts is an official public record that may be  
15 inspected in the notary's presence by any individual whose identity  
16 personally known to the notary or proven on the basis of satisfactory  
17 evidence, who specifies the notarial act sought, and who signs the  
18 notary's journal.

19 (b) Upon request in compliance with subsection (a), the notary  
20 shall provide a photocopy of an entry in the journal at a cost of not  
21 more than Five Dollars (\$5.00) per photocopy/ If a certified photocopy  
22 is requested, the cost is as specified in §33210.

23 (c) A notary shall safeguard the journal and all other notarial  
24 records as valuable public documents and never destroy them, except at  
25 the direction of the Attorney General.

26 (d) The journal must be kept in the exclusive custody of the  
27 notary, and may not be used by any other notary or surrendered to an  
28 employer upon termination of employment.

29 (e) During the first week of January of each year or upon  
30 resignation, revocation, or expiration of a notarial commission, or  
31 death of the notary, whichever comes first, the notarial journal and  
32 records must be delivered by personal service, certified mail or other  
33 means providing a receipt to the Attorney General's Office.

34 **Part 2 - Signature and Seal**

35 **§33410. Official Signature.** In completing a notarial act, a

1 notary shall sign on the notarial certificate exactly and only the  
2 name indicated on the notary's commission.

3 **§33411. Official Seal.** (a) A notary shall keep an official  
4 notarial seal that is the exclusive property of the notary and that  
5 may not be used by any other person or surrendered to an employer upon  
6 termination of employment.

7 (b) Upon resignation, revocation, or expiration of a notarial  
8 commission, or death of the notary, any seal having the expiration  
9 date of the commission on it must be destroyed in accordance with  
10 Article 7. A new seal must be obtained , under §33413, for any new  
11 commission. The notary need not destroy the embossing seal, if any,  
12 nor obtain a new embossing seal, if there is no time lapse between the  
13 expiration of one commission and the granting of another commission.  
14 the person is not authorized to perform notarial acts.

15 **§33412. Seal Impression.** (a) Near the notary's official signature  
16 on a notarial certificate, the notary shall affix in black ink a  
17 sharp, legible, and photographically reproducible impression of the  
18 notarial seal that must include the following elements:

- 19 (1) the notary's name exactly as is indicated on the commission;  
20 (2) the words **Notary Public, in and for the Territory of Guam,**  
21 **U.S.A., and My commission expires (commission expiration**  
22 **date);**  
23 (3) the address of the notary's business or residence; and  
24 (4) a rectangular border surrounding the required words.

25 (b) Illegible information within a seal impression may be typed  
26 or printed legibly by the notary adjacent to but not within the  
27 impression.

28 (c) An embossed seal impression that is not photographically  
29 reproducible shall be used in addition to but not in lieu of the seal  
30 described in subsection (a).



(as partner for \_\_\_\_\_, a partnership.)  
(as \_\_\_\_\_ for \_\_\_\_\_, a corporation.)  
(as attorney in fact for \_\_\_\_\_, the principal.)  
(as \_\_\_\_\_ for \_\_\_\_\_, (a)(the) \_\_\_\_\_.)  
(by mark before \_\_\_\_\_ and \_\_\_\_\_, subscribing witnesses.)

\_\_\_\_\_  
(official signature & seal of notary)

**§33452. JURAT.** A notary shall use a jurat certificate in substantially the following form in notarizing a signature on an affidavit deposition, or other sworn or affirmed written declaration.

Territory of Guam  
Subscribed and sworn to before me this \_\_\_\_\_, day of \_\_\_\_\_ 19 \_\_\_\_\_, by \_\_\_\_\_.

\_\_\_\_\_  
(official signature and Seal of Notary)

**§33453. Certified Copy.** A notary shall use a certificate in substantially the following form in notarizing a certified copy:

Territory of Guam  
On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, I certify that the preceding or attached document, and the duplicate retained by me as a notarial record, are true, exact, (complete)(stated portion of \_\_\_\_\_ [named document]), and unaltered photocopies made by me of \_\_\_\_\_ (description of the document), (presented to me by the document's custodian, \_\_\_\_\_,) (held in my custody as a notarial record,) and that, to the best of my knowledge, is neither a public record nor a publicly recordable document, certified copies of which are available from an official source other than a notary.

\_\_\_\_\_  
(official signature & seal of notary)

**Article 6**

**Liability and Remedies**

**Part 1 - Liability**

**§33501. Liability of Notary, Surety and Employer.** (a) A notary is liable to any person for all damages proximately caused that person by

1 the notary's official misconduct in performing a notarization.

2 (b) A surety for a notary's bond is liable to any person for  
3 damages proximately caused that person by the notary's official  
4 misconduct in performing a notarization, but this liability may not  
5 exceed the penalty of the bond or of any remaining bond funds that  
6 have not been expended to other claimants. Regardless of the number of  
7 claimants, a surety's total liability may not exceed the penalty of  
8 the bond.

9 (c) An employer of a notary is liable to any person for all  
10 damages proximately caused that person by the notary's official  
11 misconduct in performing a notarization related to the employer's  
12 business, only if the employer directed, encouraged, consented to, or  
13 approved the notary's misconduct, either in the particular transaction  
14 or, implied, by previous actions in at least one similar transaction.

15 (d) An employer of a notary is liable for all damages recovered  
16 from the notary as a result of official misconduct that was coerced by  
17 threat of the employer, if the threat, such as of demotion or  
18 dismissal, was made in reference to the particular notarization or,  
19 implied, by the employer's previous action in at least one similar  
20 transaction. In addition, the employer is liable to the notary for  
21 damages caused the notary by demotion, dismissal, or other action  
22 resulting from the notary's refusal to commit official misconduct.

23 (e) If the employer is the government of Guam, damages may be  
24 recovered only through the procedure of the Government Claims Act  
25 (5 GCA Chapter 6).

26 **§33502. Proximate Cause.** Recovery of damages against a notary,  
27 surety, or employer does not require that the notary's misconduct be  
28 the sole proximate cause of the damages.

## 29 Part 2 - Revocation

30 **§33510. Revocation.** (a) The Attorney General may revoke a  
31 notarial commission on any ground for which an application for a  
32 notarial commission may be denied under §33201.

33 (b) Resignation or expiration of a notarial commission does not  
34 terminate or preclude an investigation into a notary's conduct by the  
35 Attorney General, who may pursue the investigation to a conclusion,  
36 whereupon it must be made a matter of public record whether or not the



1 findings would have been grounds for revocation.

2 **§33511. Other Remedies.** (a) The Attorney General may deliver a  
3 written Official Warning to Cease Misconduct to any notary whose  
4 actions are judged to be official misconduct under §33105.

5 (b) The Attorney General may seek a court injunction to prevent  
6 a person from violating any provision of this Chapter.

7 **§33512. Criminal Prosecution.** A notary who knowingly and repeat-  
8 edly performs or fails to perform any act prohibited or mandated  
9 respectively by this Chapter is guilty of a misdemeanor.

10 **§33513. Additional Remedies Not Prevented.** The remedies of this  
11 Chapter supplement other remedies and penalties provided by law.

12 **Part 3 - Willful Crimes**

13 **§33520. Impersonation.** Any person not a notary who knowingly acts  
14 as or otherwise impersonates a notary is guilty of a third degree  
15 felony.

16 **§33521. Wrongful Possession.** Any person who knowingly obtains,  
17 conceals, defaces, or destroys the seal, journal, or official records  
18 of a notary is guilty of a third degree felony.

19 **§33522. Improper Influence.** Any person who knowingly solicits,  
20 coerces, or in any way influences a notary to commit official miscon-  
21 duct is guilty of a third degree felony.

22 **Article 7**

23 **§33550. Change of Address.** Within thirty (30) days after the  
24 change of a notary's business or residence address, the notary shall  
25 deliver to the Attorney General, by certified mail or other means  
26 providing a receipt, a signed notice of the change, giving both old  
27 and new addresses.

28 **§33551. Change of Name.** (a) A notary with a change of name shall  
29 deliver to the Attorney General a signed notice of the change, giving  
30 both old and new names and the effective date of the new name.

31 (b) Starting on the effective date, a notary with a new name  
32 officially shall sign that name on all notarial certificates, but only  
33 after the following steps have been completed:

34 (1) the notice described in subsection (a) has been delivered;

- 1 (2) A Confirmation of Notary's Name Change has been received
- 2 from the Attorney General;
- 3 (3) a new seal bearing the new name exactly as in the
- 4 confirmation has been obtained; and
- 5 (4) the surety for the notary's bond has been informed in
- 6 writing.

7 **§33552. Lost Journal or Seal.** Within ten (10) days after the loss  
8 or theft of any official journal or seal, the notary shall deliver to  
9 the Attorney General, by certified mail or other means providing a  
10 receipt, a signed notice of the loss or theft, and inform the  
11 appropriate law enforcement agency in the case of theft.

12 **§33553. Resignation.** (a) A notary who resigns a notarial commis-  
13 sion shall deliver to the Attorney General, by certified mail or other  
14 means providing a receipt, a notice indicating the effective date of  
15 resignation.

16 **§33554. Disposition of Seal and Journal.** (a) Except as prescribed  
17 in subsection (b), when a notarial commission is resigned, revoked, or  
18 expires, the notary shall:

- 19 (1) as soon as reasonably practical, destroy the official seal;
- 20 and
- 21 (2) within thirty (30) days of the after the effective date of
- 22 resignation, revocation or expiration, deliver to the
- 23 Attorney General, by certified mail or other means providing
- 24 a receipt, the notarial journal and records.

25 **§33555. Death.** If a notary dies during the term of commission,  
26 the notary's heirs or personal representative, as soon as reasonably  
27 practical after death shall:

- 28 (1) destroy the official seal; and
- 29 (2) deliver by certified mail or other means providing a receipt
- 30 (i) a notice of the date of death to the Attorney General,
- 31 and (ii) the notarial journal and records to the Attorney
- 32 General.

1 Article 8

2 Authentication

3 §33601. Evidence of Authenticity of Notarial Act. (a) The authen-  
4 ticity of the official notarial seal and signature of a notary of Guam  
5 may be evidenced by:

6 (1) a certificate of authority from the Attorney General,  
7 authenticated as necessary; or

8 (2) an apostille from the Attorney General in the form  
9 prescribed by the Hague Convention Abolishing the  
10 Requirement of Legalization for Foreign Public Documents of  
11 October 5, 1961.

12 (b) An apostille as specified by the Hague Convention must be  
13 attached to any document requiring authentication that is  
14 sent to a nation that has signed and ratified the  
15 Convention.

16 §33601. Certificate of Authority. A certificate of authority  
17 evidencing the authenticity of the official notarial seal and  
18 signature of a notary of this Territory must be in substantially the  
19 following form:

20 Certificate of Authority for a Notarial Act

21 I, \_\_\_\_\_ (name, Attorney General of the Territory of Guam,  
22 U.S.A.,) certify that (name of notary), the person named in the  
23 seal and signature on the attached document(,) is a notary public  
24 for the Territory of Guam, U.S.A., and was authorized to act as  
25 such at the time of the document's notarization.

26 To verify this Certificate of Authority for a Notarial Act, I  
27 have affixed below my signature and seal of office this \_\_\_\_\_ day  
28 of \_\_\_\_\_, \_\_\_\_\_.

29 §33603. Apostille. An apostille prescribed by the Hague Conven-  
30 tion, as cited in 28 U.S.C.A. in the annotations to Rule 44 of the  
31 Federal Rules of Civil Procedure, must be in the form of a square with  
32 sides at least nine (9) centimeters long and contain exactly the  
33 following wording:



**COMMITTEE  
ON  
JUDICIARY & CRIMINAL JUSTICE**

**Committee Report  
on  
Bill 269**

An Act to repeal and reenact 5 GCA Chapter 33, Articles 1 through 8 with respect to regulating notaries public.

**Preface**

The Judiciary and Criminal Justice Committee convened on **September 20, 1991, at 10:40 a.m. in the Legislative Public Hearing Room** to receive testimony on Bill 269.

Present alongside Committee Chairwoman Pilar C. Lujan was Vice-Chairman Francisco R. Santos and member Anthony C. Blaz.

**Overview**

The existing law regulating notaries public is over 40 years old and has been deemed as antiquated by the Department of Law. According to Committee records, no changes or modifications to update that law have been made.

Unlike all other jurisdictions, Guam notary public law essentially has no standards in place for those who attest to crucially important documents.

Such standards are necessary to ensure honest, trustworthy people are commissioned to attest to important documents. Moreover, the existing law is also silent on how to deal with those who violate the public trust, as recently evidenced in all alleged misuse of a notary in the "land scam" cases which are now going to trial.

In conjunction with the Department of Law, the Committee Chairwoman has introduced the law to establish such standards based on the Model Notary Act.

**Committee Findings**

Compiler of Laws Charles Troutman appeared before the Committee in favor of the measure and noted that all applications for notaries public have been handled by the Attorney General in the last decade.

Basically, a background investigation on the character of an applicant is

conducted and then all papers are forwarded to the Governor for commission.

This process is practiced and not mandated by law.

Mr. Troutman noted that the measure details all the steps and conditions for application and then the responsibilities which come with the commission.

Moreover, the measure contains provisions to ensure compliance and enforcement of those responsibilities.

"As a practical purpose, as a practical response to the present situation, this bill, affirmatively puts the commissions of the notaries in the hands of the Attorney General," Mr. Troutman said.

Committee Chairwoman Lujan queried the Compiler of Laws on whether or not the measure contains a sufficient penalty provision and he noted that violators are subject to commission revocation and civil penalty, not to mention the comprehensive criminal penalties for in 9 GCA.

#### **Committee Recommendations**

Given the antiquity of the existing notary public law, alongside of the fact that there are no detailed and mandated qualifications, conditions, and provisions for the notary public, the Committee hereby recommends passage of Substitute Bill 269 which reflects technical modifications.