

TWENTY-FIRST GUAM LEGISLATURE  
1991 (FIRST) Regular Session

Bill No. 269

Introduced by:

P. G. Lujan  
S. P. AGUIAR

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

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GU.  
2 Section 1. Title 5 GCA, Chapter 33 is repealed and reenacted to  
3 read:

4 "CHAPTER 33  
5 NOTARIES PUBLIC

6 Article 1

7 Implementation

8 §33101. Short Title. This Article may be known as the Model  
9 Notary Law.

10 §33102. Purposes. This Chapter shall be construed and applied to  
11 advance its underlying purposes, which are:

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

15 enacting it.

16 §33103. Prospective Effect. The existing bond, seal, length of  
17 commission term, and liability of current notaries commissioned before  
18 this Chapter effective date may not be invalidated, modified, or termi-  
19 nated by this Chapter, but those notaries shall comply with this  
20 Chapter in performing notarizations and in applying for new  
21 commissions.

22 §33104. Definitions. (1) *Acknowledgment* means a notarial act in  
23 which a notary certifies that a signer, whose identity is personally  
24 known to the notary or proven on the basis of satisfactory evidence

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

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

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

(4) *Jurat* 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, has made, in the notary's presence, a voluntary signature and taken an oath or affirmation vouching for the truthfulness of the signed document.

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

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

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

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

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

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

(11) *Satisfactory evidence of identity* means identification of an individual based on: (i) at least two current documents, one issued b

1 a federal or state government with the individual's photograph, signa-  
2 ture and physical description, and the other by an institution, busi-  
3 ness entity, or federal or state government with at least the  
4 individual's signature; or (ii) the oath or affirmation of a credible  
5 person who is personally known to the notary and who personally  
6 knows the individual.

7 (12) **State** includes any state of the United States, and any United  
8 States territory, possession or commonwealth and the District of  
9 Columbia.

10 §33105. **Effective Date.** This Act shall take effect ninety days  
11 following its enactment into law.

12 Article 2

13 Commissioning

14 Part 1

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

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

- 19 (1) be at least 18 years of age;  
20 (2) lawfully reside or work in Guam;  
21 (3) read and write English;  
22 (4) after one is required, pass a written examination under  
23 §33203; and  
24 (5) submit an application containing no significant misstatement  
25 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 or  
28 moral turpitude;  
29 (2) revocation, suspension, or restriction of a notarial commis-  
30 sion or professional license issued to the applicant by this  
31 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 provi-  
13 sions 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,  
17 at 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 must  
24 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 pleas  
31 of guilt and nolo contendere; and  
32 (5) all issuances, denials, revocations, suspensions, restrictions  
33 and resignations of a notarial commission or other profession-  
34 al license involving the applicant in Guam or in any stat



- 1 (1) the applicant;
- 2 (2) the applicant's authorized representative or surety;
- 3 (3) a representative of federal, territorial, state, county or city
- 4 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,  
9 but notaries so empowered may perform notarial acts only in the ser-  
10 vice of their respective government agencies. Such service includes  
11 the 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 ter-

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

Article 3  
Powers and Limitations  
Part 1 - Powers

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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 performing  
11 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, advantage, right, title,  
16 interest, cash, property, or other consideration exceeding in  
17 value the fees specified in §33310; or  
18 (3) is related to the person whose signature is to be notarized  
19 as a spouse, sibling, or lineal ascendant or descendant.

20 §33303. Impartiality. (a) A notary may not influence a person to  
21 enter into or not to enter into a lawful transaction involving a notarial  
22 act by the notary.

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

26 §33304. False Certificate. A notary may not execute a certificate  
27 containing a statement known by the notary to be false or perform any  
28 official action with intent to deceive or defraud.

29 §33306. Testimonials. A notary may not endorse or promote any  
30 product, service, contest, or other offering if the notary's title or  
31 seal is used in the endorsement or promotional statement.

32 §33306. Unauthorized Practice of Law. (a) A non-attorney notary  
33 may complete but may not select notarial certificates, and may not  
34 assist another person in drafting, completing, selecting,

1 understanding a document or transaction requiring a notarial ac

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 that  
4 professional field.

5 (c) A notary may not make representations to have powers,  
6 qualifications, rights or privileges that the office of notary does not  
7 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, notice,  
10 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 equiva-  
16 lent non-English term in any business card, advertisement, notice or  
17 sign.

18 Part 2 - Fees

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

22 (1) For taking acknowledgement or proof of a deed or other  
23 instrument, to include the seal and writing of the certificate,  
24 for the first two signatures, Three Dollars (\$3.00) each; and  
25 for each additional signature, One Dollar and Fifty cents  
26 (\$1.50).

27 (2) For administering an oath or affirmation, Three Dollars  
28 (\$3.00).

29 (3) For every certificate, to include writing the same, and the  
30 seal, Three Dollars (\$3.00);

31 Provided, however, that in no event may a Notary Public who is  
32 an employee of the government demand or receive any fee or compen-  
33 sation of any kind for performing any duty of a Notary Public during  
34 normal 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 act  
4 that the travel fee is separate from the notarial fee in sub-  
5 section (a) and is neither specified nor mandated in law; a  
6 (2) the notary and the person requesting the notarial act agree  
7 upon the travel fee in advance.

8 §33311. **Notice of Fees.** Notaries shall display an English language  
9 schedule of fees for notarial acts, as specified in §33310(a). No part of  
10 any displayed notarial fee schedule may be printed in smaller than  
11 10-point type.

12 Article 4

13 Journal and Seal

14 Part 1 - Journal

15 §33401. **Journal.** A notary shall keep, maintain, protect as a  
16 public record, and provide for lawful inspection a chronological,  
17 permanently bound, official journal of notarial acts, containing num-  
18 bered pages.

19 §33402. **Entries in Journal.** (a) For every notarial act, the notary  
20 shall record in the journal at the time of notarization at least the  
21 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 that  
29 the person is *personally known* to the notary, (ii) a descrip-  
30 tion of the identification document, its issuing agency, its  
31 serial or identification number, and the date of its issuance  
32 or expiration, or (iii) the signature and printed name and  
33 address of a credible witness swearing or affirming to the  
34 person's identity;

- 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 photo-  
5 copy of each certified copy.

6 (c) A notary shall record in the journal the circumstances in  
7 refusing to perform or complete a notarial act.

8 **§33403. Signatures 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;  
11 (2) the credible witness swearing or affirming to the identity of  
12 the person for whom the notarial act is performed;  
13 (3) the subscribing witness swearing or affirming that another  
14 person signed the document that was notarized; and  
15 (4) the two witnesses to a signature by mark of a document that  
16 is notarized.

17 **§33404. Inspection, Copying and Disposal of Journal.** (a) A  
18 journal of notarial acts is an official public record that may be inspect-  
19 ed in the notary's presence by any individual whose identity personal-  
20 ly known to the notary or proven on the basis of satisfactory  
21 evidence, who specifies the notarial act sought, and who signs the  
22 notary's journal.

23 (b) Upon request in compliance with subsection (a), the notary  
24 shall provide a photocopy of an entry in the journal at a cost of not  
25 more than One Dollar (\$1.00) per photocopy/ If a certified photocopy  
26 is requested, the cost is as specified in §33210.

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

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

33 (e) Upon resignation, revocation, or expiration of a notarial  
34 commission, or death of the notary, the notarial journal and reco-

1 must be delivered by certified mail or other means providing a receipt  
2 to the Attorney General's Office in accordance with Article 7.

3 Part 2 - Signature and Seal

4 §33410. **Official Signature.** In completing a notarial act, a notary  
5 shall sign on the notarial certificate exactly and only the name indicat-  
6 ed on the notary's commission.

7 §33411. **Official Seal.** (a) A notary shall keep an official notarial  
8 seal that is the exclusive property of the notary and that may not be  
9 used by any other person or surrendered to an employer upon termi-  
10 nation of employment.

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

19 §33412. **Seal Impression.** (a) Near the notary's official signature  
20 on a notarial certificate, the notary shall affix in black ink a sharp,  
21 legible, and photographically reproducible impression of the notarial  
22 seal that must include the following elements:

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

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

32 (c) An embossed seal impression that is not photographically  
33 reproducible may be used in addition to but not in lieu of the seal  
34 described in subsection (a).

1 §33413. Obtaining a Seal. (a) A vendor may not provide a notary  
2 seal, either inking or embossing, to a person claiming to be a notary,  
3 unless the person presents the following documents, which the vendor  
4 must retain for a period of three (3) years: a photocopy of the per-  
5 son's notarial commission, attached to a notarized declaration substan-  
6 tially as follows:

7 "Application for Notary Seal

8 I, \_\_\_\_\_ (name of person requesting seal), declare that I  
9 am a notary public duly commissioned by the Territory of Guam,  
10 with a commission starting date of \_\_\_\_\_, a commission expiration  
11 date of \_\_\_\_\_, and a commission number os \_\_\_\_\_. As evidence,  
12 I attach to this paper a photocopy of my commission.

13 \_\_\_\_\_ (signature of person requesting seal)

14 (notarial certificate specified in §33450)

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

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

20 Article 5

21 Certificates

22 §33450. General Acknowledgment. A notary shall use a certificate  
23 in substantially the following form in notarizing the signature or mark  
24 of a person acknowledging for themselves or as partners, corporate  
25 officers, attorneys in fact, or in other representative capacities:

26 Territory of Guam

27 On this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_, before me, the undersigned  
28 notary, personally appeared \_\_\_\_\_, (personally known to  
29 me) (proved to me through government-issued documentary evi-  
30 dence in the form of \_\_\_\_\_) (proved to me on the oath or  
31 affirmation of \_\_\_\_\_, who is personally known to me), to be  
32 the person(s) whose name(s) (is)(are) signed on the preceding or  
33 attached document, and acknowledged to me that (he)(she)(they)  
34 signed it voluntarily for its stated purpose(.

- 1 (as partner for \_\_\_\_\_, a partnership.)
- 2 (as \_\_\_\_\_ for \_\_\_\_\_, a corporation.)
- 3 (as attorney in fact for \_\_\_\_\_, the principal.)
- 4 (as \_\_\_\_\_ for \_\_\_\_\_, (a)(th) \_\_\_\_\_.)
- 5 (by mark before \_\_\_\_\_ and \_\_\_\_\_, subscribing witness

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

§33451. **Subscribing Witness for Absent Signer.** A notary shall use a certificate in substantially the following form in notarizing, through a subscribing witness, the signature of a person who does not appear before a notary.

Territory of Guam

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, the undersigned notary, personally appeared \_\_\_\_\_, (personally known to me.)

(proved to me on the oath or affirmation of \_\_\_\_\_ who is personally known to me,)

to be the person whose name is signed on the preceding or attached document as subscribing witness and who declared to me under oath or affirmation that (he)(she) personally knows \_\_\_\_\_ (name of signer not appearing before notary) and witnessed that individual voluntarily sign or acknowledge having signed the document for its stated purpose, and who also declared having signed the same as witness.

\_\_\_\_\_ (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

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, the undersigned notary, personally appeared \_\_\_\_\_, (personally known to me)(proved to me through government-issued documentary evidence in the form of \_\_\_\_\_)(proved to me on t

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oath of affirmation of \_\_\_\_\_, who is personally known to me,) to be the person(s) who signed the preceding or attached document in my presence and who swore or affirmed the me that the signature(s) (is)(are) voluntary and the document truthful.

\_\_\_\_\_  
(official signature & 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 docuemnt]), 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 the notary's official misconduct in performing a notarization.

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

1 (c) An employer of a notary is liable to any person for all damag  
2 es proximately caused that person by the notary's official misconduct  
3 in performing a notarization related to the employer's business, if the  
4 employer directed, encouraged, consented to, or approved the notary  
5 misconduct, either in the particular transaction or, impliedly, by  
6 previous actions in at least one similar transaction.

7 (d) An employer of a notary is liable for all damages recovered  
8 from the notary as a result of official misconduct that was coerced by  
9 threat of the employer, if the threat, such as of demotion or dismissal  
10 was made in reference to the particular notarization or, impliedly, by  
11 the employer's previous action in at least one similar transaction. In  
12 addition, the employer is liable to the notary for damages caused the  
13 notary by demotion, dismissal, or other action resulting from the  
14 notary's refusal to commit official misconduct.

15 (e) If the employer is the government of Guam, damages may be  
16 recovered only through the procedure of the Government Claims Act (1  
17 GCA Chapter.6).

18 **§33502. Proximate Cause.** Recovery of damages against a notary,  
19 surety, or employer does not require that the notary's misconduct be  
20 the sole proximate cause of the damages.

21 Part 2 - Revocation

22 **§33510. Revocation.** (a) The Attorney General may revoke a  
23 notarial commission on any ground for which an application for a  
24 notarial commission may be denied under §33201.

25 (b) Resignation or expiration of a notarial commission does not  
26 terminate or preclude an investigation into a notary's conduct by the  
27 Attorney General, who may pursue the investigation to a conclusion,  
28 whereupon it must be made a matter of public record whether or not  
29 the finding would have been grounds for revocation.

30 **§33511. Other Remedies.** (a) The Attorney General may deliver a  
31 written Official Warning to Cease Misconduct to any notary whose  
32 actions are judged to be official misconduct under §33105.

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





1 (4) the surety for the notary's bond has been informed in  
 2 writing.

3 §33552. Lost Journal or Seal. Within ten (10) days after the loss  
 4 or theft of any official journal or seal, the notary shall deliver to the  
 5 Attorney General, by certified mail or other means providing a receipt  
 6 a signed notice of the loss or theft, and inform the appropriate law  
 7 enforcement agency in the case of theft.

8 §33553. Resignation. (a) A notary who resigns a notarial commis-  
 9 sion shall deliver to the Attorney General, by certified mail or other  
 10 means providing a receipt, a notice indicating the effective date of  
 11 resignation.

12 §33554. Disposition of Seal and Journal. (a) Except as prescribed  
 13 in subsection (b), when a notarial commission is resigned, revoked, or  
 14 expires, the notary shall:

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

21 (b) A former notary who intends to apply for a new commission  
 22 and whose previous commission or application was not revoked or  
 23 denied by the Territory, need not deliver the journal and records  
 24 within thirty (30) days after commission expiration, but must do so  
 25 within three (3) months after expiration unless recommissioned within  
 26 that period.

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

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

Article 8

Authentication

§33601. Evidence of Authenticity of Notarial Act. (a) The authenticity of the official notarial seal and signature of a notary of Guam may be evidenced by:

- (1) a certificate of authority from the Attorney General, authenticated as necessary; or
- (2) an apostille from the Attorney General in the form prescribed by the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents of October 5, 1961.

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

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

Certificate of Authority for a Notarial Act

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

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

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

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APOSTILLE

(Convention de La Haye du 5 octobre 1961)

1. Country: United States of America

This public document

2. has been

signed by

3. acting in

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

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

CERTIFIED

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

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

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

9. Seal/Stamp

10. Signature

\_\_\_\_\_

Article .9

Commissioners of Deeds

**§33650. Commissioners of Deeds; Appointment.** The Attorney General may appoint in each state, territory, or insular possession of the United States, or in any foreign state one or more commissioners of deeds, to hold office for terms of four (4) years from and after the date of their commission.

**§33651. Powers of Commissioners.** Every commissioner of deeds has power, within the jurisdiction for which he is appointed:

- (1) To administer and certify oaths;
- (2) To take and certify depositions and affidavits;
- (3) To take and certify the acknowledgement or proof of powers of attorney, mortgages, transfers, grants, deeds, or other instruments of writing;
- (4) To provide and keep an official seal upon which shall be engraved the Great Seal of Guam and the words *Commissioner of Deeds for the Territory of Guam*, and the name of the jurisdiction for which he is commissioned.
- (5) To authenticate with his official seal all his official act







# Twenty-first Guam Legislature

155 Hesler St.  
Agaña, Guam 96910

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## COMMITTEE ON JUDICIARY AND CRIMINAL JUSTICE

VOTE SHEET ON: SUBSTITUTE  
BILL # 269

COMMITTEE MEMBER	TO PASS	NOT TO PASS	ABSTAIN	TO PLACE IN INACTIVE FILE
<u>Pilar C. Lujan</u> Senator Pilar C. Lujan Chairman	✓	—	—	—
<u>F.R. Santos</u> Senator Francisco R. Santos Vice Chairman	✓	—	—	—
<u>E. Arriola</u> Senator Elizabeth P. Arriola	✓	—	—	—
<u>J. George Bamba</u> Senator J. George Bamba	✓	—	—	—
<u>Anthony G. Blaz</u> Senator Anthony G. Blaz	✓	—	—	—
<u>Herminia D. Dierking</u> Senator Herminia D. Dierking	✓	—	—	—
<u>Gordon Mailloux</u> Senator Gordon Mailloux	✓	—	—	—
<u>Don Parkinson</u> Senator Don Parkinson	✓	—	—	—
<u>Martha C. Ruth</u> Senator Martha C. Ruth	✓ 3/10/92	—	—	—
<u>Joe T. San Agustin</u> Speaker Joe T. San Agustin	✓ 3/10/92	—	—	—
<u>Thomas W.C. Tanaka</u> Senator Thomas W.C. Tanaka	✓	—	—	—
<u>Antonio R. Unpingco</u> Senator Antonio R. Unpingco	✓	—	—	—

APR 03 '91

TWENTY-FIRST GUAM LEGISLATURE  
1991 (FIRST) Regular Session

Bill No. 269 (COR)

Introduced by:

P. C. Lujan *PC*  
P. AGUIAR *PA*

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

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:  
2 Section 1. Title 5 GCA, Chapter 33 is repealed and reenacted to  
3 read:

4 "CHAPTER 33  
5 NOTARIES PUBLIC  
6 Article 1  
7 Implementation

8 §33101. Short Title. This Article may be known as the Model  
9 Notary Law.

10 §33102. Purposes. This Chapter shall be construed and applied to  
11 advance its underlying purposes, which are:

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

16 §33103. Prospective Effect. The existing bond, seal, length of  
17 commission term, and liability of current notaries commissioned before  
18 this Chapter effective date may not be invalidated, modified, or termi-  
19 nated by this Chapter, but those notaries shall comply with this  
20 Chapter in performing notarizations and in applying for new  
21 commissions.

22 §33104. Definitions. (1) *Acknowledgment* means a notarial act in  
23 which a notary certifies that a signer, whose identity is personally  
24 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 presence,  
11 a voluntary signature and taken an oath or affirmation vouching for  
12 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 attach-  
16 ment to a notarized document for completion by the notary and bearing  
17 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 period  
31 of time sufficient to eliminate every reasonable doubt that the individu-  
32 al has the identity claimed.

33 (11) *Satisfactory evidence of identity* means identification of an  
34 individual based on: (i) at least two current documents, one issued by



1 a federal or state government with the individual's photograph, signa-  
2 ture and physical description, and the other by an institution, busi-  
3 ness entity, or federal or state government with at least the  
4 individual's signature; or (ii) the oath or affirmation of a credible  
5 person who is personally known to the notary and who personally  
6 knows the individual.

7 (12) *State* includes any state of the United States, and any United  
8 States territory, possession or commonwealth and the District of  
9 Columbia.

10 §33105. **Effective Date.** This Act shall take effect ninety days  
11 following its enactment into law.

12 Article 2

13 Commissioning

14 Part 1

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

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

- 19 (1) be at least 18 years of age;  
20 (2) lawfully reside or work in Guam;  
21 (3) read and write English;  
22 (4) after one is required, pass a written examination under  
23 §33203; and

24 (5) submit an application containing no significant misstatement  
25 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 or  
28 moral turpitude;  
29 (2) revocation, suspension, or restriction of a notarial commis-  
30 sion or professional license issued to the applicant by this  
31 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 provi-  
13 sions 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,  
17 at 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 must  
24 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 pleas  
31 of guilt and nolo contendere; and  
32 (5) all issuances, denials, revocations, suspensions, restrictions  
33 and resignations of a notarial commission or other profession-  
34 al license involving the applicant in Guam 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 city
- 4 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,  
9 but notaries so empowered may perform notarial acts only in the ser-  
10 vice of their respective government agencies. Such service includes  
11 the 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 must  
18 meet the requirements in Article 2, Part 2, except the application shall  
19 include a written declaration signed by the applicant's department or  
20 agency head stating that the commissioning is in the public interest;  
21 and the fee in §33214 is waived for employees of the government of  
22 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 section.

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**Article 3**  
**Powers and Limitations**  
**Part 1 - Powers**

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

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

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

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

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

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

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

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

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

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 that  
4 professional field.

5 (c) A notary may not make representations to have powers,  
6 qualifications, rights or privileges that the office of notary does not  
7 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, notice,  
10 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 equiva-  
16 lent non-English term in any business card, advertisement, notice or  
17 sign.

18 Part 2 - Fees

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

22 (1) For taking acknowledgement or proof of a deed or other  
23 instrument, to include the seal and writing of the certificate,  
24 for the first two signatures, **Three Dollars (\$3.00)** each; and  
25 for each additional signature, **One Dollar and Fifty cents**  
26 **(\$1.50).**

27 (2) For administering an oath or affirmation, **Three Dollars**  
28 **(\$3.00).**

29 (3) For every certificate, to include writing the same, and the  
30 seal, **Three Dollars (\$3.00);**

31 Provided, however, that in no event may a Notary Public who is  
32 an employee of the government demand or receive any fee or compen-  
33 sation of any kind for performing any duty of a Notary Public during  
34 normal 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 act  
4 that the travel fee is separate from the notarial fee in sub-  
5 section (a) and is neither specified nor mandated in law; and  
6 (2) the notary and the person requesting the notarial act agree  
7 upon the travel fee in advance.

8 §33311. **Notice of Fees.** Notaries shall display an English language  
9 schedule of fees for notarial acts, as specified in §33310(a). No part of  
10 any displayed notarial fee schedule may be printed in smaller than  
11 10-point type.

12 Article 4

13 Journal and Seal

14 Part 1 - Journal

15 §33401. **Journal.** A notary shall keep, maintain, protect as a  
16 public record, and provide for lawful inspection a chronological,  
17 permanently bound, official journal of notarial acts, containing num-  
18 bered pages.

19 §33402. **Entries in Journal.** (a) For every notarial act, the notary  
20 shall record in the journal at the time of notarization at least the  
21 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 that  
29 the person is *personally known* to the notary, (ii) a descrip-  
30 tion of the identification document, its issuing agency, its  
31 serial or identification number, and the date of its issuance  
32 or expiration, or (iii) the signature and printed name and  
33 address of a credible witness swearing or affirming to the  
34 person's identity;

- 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 photo-  
5 copy of each certified copy.

6 (c) A notary shall record in the journal the circumstances in  
7 refusing to perform or complete a notarial act.

8 **§33403. Signatures 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;
- 11 (2) the credible witness swearing or affirming to the identity of
- 12 the person for whom the notarial act is performed;
- 13 (3) the subscribing witness swearing or affirming that another
- 14 person signed the document that was notarized; and
- 15 (4) the two witnesses to a signature by mark of a document that
- 16 is notarized.

17 **§33404. Inspection, Copying and Disposal of Journal.** (a) A  
18 journal of notarial acts is an official public record that may be inspect-  
19 ed in the notary's presence by any individual whose identity personal-  
20 ly known to the notary or proven on the basis of satisfactory  
21 evidence, who specifies the notarial act sought, and who signs the  
22 notary's journal.

23 (b) Upon request in compliance with subsection (a), the notary  
24 shall provide a photocopy of an entry in the journal at a cost of not  
25 more than One Dollar (\$1.00) per photocopy/ If a certified photocopy  
26 is requested, the cost is as specified in §33210.

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

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

33 (e) Upon resignation, revocation, or expiration of a notarial  
34 commission, or death of the notary, the notarial journal and records



1 must be delivered by certified mail or other means providing a receipt  
2 to the Attorney General's Office in accordance with Article 7.

3 Part 2 - Signature and Seal

4 §33410. **Official Signature.** In completing a notarial act, a notary  
5 shall sign on the notarial certificate exactly and only the name indicat-  
6 ed on the notary's commission.

7 §33411. **Official Seal.** (a) A notary shall keep an official notarial  
8 seal that is the exclusive property of the notary and that may not be  
9 used by any other person or surrendered to an employer upon termi-  
10 nation of employment.

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

19 §33412. **Seal Impression.** (a) Near the notary's official signature  
20 on a notarial certificate, the notary shall affix in black ink a sharp,  
21 legible, and photographically reproducible impression of the notarial  
22 seal that must include the following elements:

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

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

32 (c) An embossed seal impression that is not photographically  
33 reproducible may be used in addition to but not in lieu of the seal  
34 described in subsection (a).



- 1 (as partner for \_\_\_\_\_, a partnership.)
- 2 (as \_\_\_\_\_ for \_\_\_\_\_, a corporation.)
- 3 (as attorney in fact for \_\_\_\_\_, the principal.)
- 4 (as \_\_\_\_\_ for \_\_\_\_\_, (a)(the) \_\_\_\_\_.)
- 5 (by mark before \_\_\_\_\_ and \_\_\_\_\_, subscribing witnesses.)

\_\_\_\_\_

(official signature & seal of notary)

8 §33451. **Subscribing Witness for Absent Signer.** A notary shall  
 9 use a certificate in substantially the following form in notarizing,  
 10 through a subscribing witness, the signature of a person who does not  
 11 appear before a notary.

12 Territory of Guam

13 On this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, the undersigned  
 14 notary, personally appeared \_\_\_\_\_, (personally known to  
 15 me,) (proved to me on the oath or affirmation of \_\_\_\_\_ who is  
 16 personally known to me,) to be the person whose name is signed on the preceding or  
 17 attached document as subscribing witness and who declared to me  
 18 under oath or affirmation that (he)(she) personally knows \_\_\_\_\_  
 19 (name of signer not appearing before notary) and witnessed that  
 20 individual voluntarily sign or acknowledge having signed the  
 21 document for its stated purpose, and who also declared having  
 22 signed the same as witness.

\_\_\_\_\_

(official signature & seal of notary)

27 §33452. **Jurat.** A notary shall use a jurat certificate in substan-  
 28 tially the following form in notarizing a signature on an affidavit,  
 29 deposition, or other sworn or affirmed written declaration:

30 Territory of Guam

31 On this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, the under-  
 32 signed notary, personally appeared \_\_\_\_\_, (personally  
 33 known to me)(proved to me through government-issued documen-  
 34 tary evidence in the form of \_\_\_\_\_)(proved to me on the

1 oath of affirmation of \_\_\_\_\_, who is personally known to  
2 me,) to be the person(s) who signed the preceding or attached docu-  
3 ment in my presence and who swore or affirmed the me that the  
4 signature(s) (is)(are) voluntary and the document truthful.  
5

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

8 §33453. Certified Copy. A notary shall use a certificate in sub-  
9 stantially the following form in notarizing a certified copy:

10 Territory of Guam

11 On this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, I certify that the preced-  
12 ing or attached document, and the duplicate retained by me as a  
13 notarial record, are true, exact, (complete)(stated portion of  
14 \_\_\_\_\_ [named documnt]), and unaltered photocopies made by  
15 me of \_\_\_\_\_ (description of the document), (presented to me  
16 by the document's custodian, \_\_\_\_\_,) (held in my  
17 custody as a notarial record,) and that, to the best of my knowl-  
18 edge, is neither a public record nor a publicly recordable docu-  
19 ment, certified copies of which are available from an official  
20 source other than a notary.

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

23 Article 6  
24 Liability and Remedies  
25 Part 1 - Liability

26 §33501. Liability of Notary, Surety and Employer. (a) A notary is  
27 liable to any person for all damages proximately caused that person by  
28 the notary's official misconduct in performing a notarization.

29 (b) A surety for a notary's bond is liable to any person for  
30 damages proximately caused that person by the notary's officla miscon-  
31 duct in performing a notarization, but this liability may not exceed the  
32 penalty of the bond or of any remaining bond funds that have not  
33 been expended to other claimants. Regardless of the number of claim-  
34 ants, a surety's total liability may not exceed the penalty of the bond.

1 (c) An employer of a notary is liable to any person for all damag-  
2 es proximately caused that person by the notary's official misconduct  
3 in performing a notarization related to the employer's business, if the  
4 employer directed, encouraged, consented to, or approved the notary's  
5 misconduct, either in the particular transaction or, impliedly, by  
6 previous actions in at least one similar transaction.

7 (d) An employer of a notary is liable for all damages recovered  
8 from the notary as a result of official misconduct that was coerced by  
9 threat of the employer, if the threat, such as of demotion or dismissal,  
10 was made in reference to the particular notarization or, impliedly, by  
11 the employer's previous action in at least one similar transaction. In  
12 addition, the employer is liable to the notary for damages caused the  
13 notary by demotion, dismissal, or other action resulting from the  
14 notary's refusal to commit official misconduct.

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

18 **§33502. Proximate Cause.** Recovery of damages against a notary,  
19 surety, or employer does not require that the notary's misconduct be  
20 the sole proximate cause of the damages.

21 Part 2 - Revocation

22 **§33510. Revocation.** (a) The Attorney General may revoke a  
23 notarial commission on any ground for which an application for a  
24 notarial commission may be denied under §33201.

25 (b) Resignation or expiration of a notarial commission does not  
26 terminate or preclude an investigation into a notary's conduct by the  
27 Attorney General, who may pursue the investigation to a conclusion,  
28 whereupon it must be made a matter of public record whether or not  
29 the finding would have been grounds for revocation.

30 **§33511. Other Remedies.** (a) The Attorney General may deliver a  
31 written Official Warning to Cease Misconduct to any notary whose  
32 actions are judged to be official misconduct under §33105.

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



1           (4) the surety for the notary's bond has been informed in  
2           writing.

3           §33552. **Lost Journal or Seal.** Within ten (10) days after the loss  
4           or theft of any official journal or seal, the notary shall deliver to the  
5           Attorney General, by certified mail or other means providing a receipt,  
6           a signed notice of the loss or theft, and inform the appropriate law  
7           enforcement agency in the case of theft.

8           §33553. **Resignation.** (a) A notary who resigns a notarial commis-  
9           sion shall deliver to the Attorney General, by certified mail or other  
10          means providing a receipt, a notice indicating the effective date of  
11          resignation.

12          §33554. **Disposition of Seal and Journal.** (a) Except as prescribed  
13          in subsection (b), when a notarial commission is resigned, revoked, or  
14          expires, the notary shall:

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

21          (b) A former notary who intends to apply for a new commission  
22          and whose previous commission or application was not revoked or  
23          denied by the Territory, need not deliver the journal and records  
24          within thirty (30) days after commission expiration, but must do so  
25          within three (3) months after expiration unless recommissioned within  
26          that period.

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

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

Article 8  
Authentication

§33601. Evidence of Authenticity of Notarial Act. (a) The authenticity of the official notarial seal and signature of a notary of Guam may be evidenced by:

- (1) a certificate of authority from the Attorney General, authenticated as necessary; or
- (2) an apostille from the Attorney General in the form prescribed by the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents of October 5, 1961.

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

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

Certificate of Authority for a Notarial Act

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

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

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



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APOSTILLE

(Convention de La Haye du 5 octobre 1961)

1. Country: United States of America

This public document

2. has been

signed by

3. acting in

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

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

CERTIFIED

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

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

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

9. Seal/Stamp

10. Signature

\_\_\_\_\_

Article 9

Commissioners of Deeds

§33650. **Commissioners of Deeds; Appointment.** The Attorney General may appoint in each state, territory, or insular possession of the United States, or in any foreign state one or more commissioners of deeds, to hold office for terms of four (4) years from and after the date of their commission.

§33651. **Powers of Commissioners.** Every commissioner of deeds has power, within the jurisdiction for which he is appointed:

- (1) To administer and certify oaths;
- (2) To take and certify depositions and affidavits;
- (3) To take and certify the acknowledgement or proof of powers of attorney, mortgages, transfers, grants, deeds, or other instruments of writing;
- (4) To provide and keep an official seal upon which shall be engraved the Great Seal of Guam and the words *Commissioner of Deeds for the Territory of Guam*, and the name of the jurisdiction for which he is commissioned.
- (5) To authenticate with his official seal all his official acts.

