



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

MAR 12 1996

The Honorable Ted S. Nelson
Acting Speaker
Twenty-Third Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>[Signature]</u>
Time	<u>4:10</u>
Date	<u>3-12-96</u>

Dear Speaker Nelson:

Enclosed please find a copy of Substitute Bill No. 354 (LS), "AN ACT TO AMEND §§33104, 33203, 33211, 33214, 33220, 33310, 33402, 33404, 33412, 33520, 33601, AND 33603 AND TO ADD NEW §§33106 AND 33556 TO TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO NOTARIES PUBLIC", which I have signed into law today as **Public Law No. 23-81**.

This legislation amends the current notary law to provide for a Notary Public Revolving Fund to be used by the Attorney General in funding the expenses of administering the notary program. Application fees from those who wish to become notaries will be placed in the fund. This legislation also increases the fees to apply to attain a notarial commission, as well as the fees to have documents notarized, from the current \$6 per notarial service to \$10. Other adjustments were also made to the notary law.

Very truly yours,

[Signature]
Carl T. C. Gutierrez

Attachment
231038

Office of VICE-SPEAKER TED S. NELSON	
Received by	
<u>[Signature]</u>	
Print Name	Initial
Date: <u>3/12</u>	Time: <u>1:30 PM</u>

TWENTY-THIRD GUAM LEGISLATURE
1996 (SECOND) Regular Session

This is to certify that Substitute Bill No. 354 (LS), "AN ACT TO AMEND §§33104, 33203, 33211, 33214, 33220, 33302, 33310, 33402, 33404, 33412, 33520, 33601, AND 33603 AND TO ADD NEW §§33106 AND 33556 TO TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO NOTARIES PUBLIC," was on the 28th day of February, 1996, duly and regularly passed.



D. PARKINSON
Speaker

Attested:



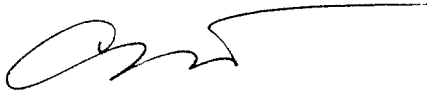
JUDITH WON PAT-BORJA
Senator and Legislative Secretary

This Act was received by the Governor this 1st day of March,
1996, at 5:40 o'clock P.M.



Assistant Staff Officer
Governor's Office

APPROVED:



CARL T. C. GUTIERREZ
Governor of Guam

Date: 3-12-96

Public Law No. 23-81

TWENTY THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

Bill No. 354 (LS)

As substituted by the Committee
on Judiciary, Criminal Justice
and Environmental Affairs

Introduced by:

E. Barrett-Anderson
A. C. Blaz
T. S. Nelson
T. C. Ada
J. P. Aguon
J. M. S. Brown
F. P. Camacho
M. C. Charfauros
H. A. Cristobal
M. Forbes
A. C. Lamorena V
C. A. Leon Guerrero
L. A. Leon Guerrero
S. L. Orsini
V. C. Pangelinan
D. Parkinson
J. T. San Agustin
A. L. G. Santos
F. E. Santos
A. R. Unpingco
J. Won Pat-Borja

AN ACT TO AMEND §§33104, 33203, 33211, 33214, 33220,
33302, 33310, 33402, 33404, 33412, 33520, 33601, AND 33603
AND TO ADD NEW §§33106 AND 33556 TO TITLE 5,
GUAM CODE ANNOTATED, RELATIVE TO NOTARIES
PUBLIC.

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

2 **Section 1. Legislative Intent.** The Legislature finds that Guam's Model
3 Notary Law, 5 GCA, Chapter 33, has been in effect for more than two years,
4 and during the course of its implementation the Attorney General's Office has
5 discovered that certain amendments and additions to the Model Notary Law
6 are required in order for the goals and objectives of the act to be more
7 effectively and efficiently carried out. The Office of the Attorney General is
8 requesting that the amendments and additions set forth in this bill be
9 incorporated into the Model Notary Act. It is in the best interests of the
10 people to address these changes and clarify the law as recommended by the
11 Attorney General.

12 **Section 2.** 5 GCA §33104 is amended to read:

13 **"§33104. Definitions.** As used in this Chapter:

14 (1) *Acknowledgment* means a notarial act in which a notary
15 certifies that a signer, whose identity is proven on the basis of
16 satisfactory evidence, has admitted, in the notary's presence,
17 having signed a document voluntarily for its stated purpose.

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

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

23 (4) *A crime involving moral turpitude* includes any felony
24 committed in Guam or any crime committed outside Guam that
25 would be a felony under Guam law, any crime involving personal

1 injury, and any crime involving a breach of official duty if done
2 willfully.

3 (5) *Fund* means the Notary Public Revolving Fund as set
4 forth in this Chapter.

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

10 (7) *Notarial act* and *notarization* mean any act that a notary
11 is empowered to perform under Section 33301 of this Chapter.

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

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

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

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

1 (12) *Personal knowledge of identity* means familiarity with
2 an individual resulting from contact with that individual over a
3 period of time sufficient to eliminate every reasonable doubt that
4 the individual has the identity claimed.

5 (13) *Satisfactory evidence of identity* means identification of
6 an individual based on: (i) any current passport or (ii) an official
7 identification issued by a federal or state government with the
8 individual's photograph and signature or (iii) personal knowledge
9 of identity.

10 (14) *State* includes any state of the United States, any United
11 States territory, possession, or commonwealth, and the District of
12 Columbia."

13 **Section 3.** A new 5 GCA §33106 is added to read:

14 "§33106. **Notary Public Revolving Fund.** There is established a
15 fund to be known as the "Notary Public Revolving Fund," (the "Fund")
16 which shall be maintained separate and apart from other funds of the
17 government of Guam. All funds generated from fees under this
18 Chapter for application, authentication, copying, and any other
19 government fee required by this Chapter shall be deposited into the
20 Fund. The Fund shall be used by the Attorney General for the purpose
21 of the administration of the notary program, including personnel costs
22 for training, notary educational programs and conferences, and any
23 administrative and equipment costs."

24 **Section 4.** 5 GCA §33203 is amended to read:

25 "§33203. **Bond.** No notarial commission may be issued unless the
26 notary has produced, as part of the application, evidence that, upon
27 commissioning, a bond is in force in the sum of One Thousand Dollars

1 (\$1,000). The bond must be executed by a licensed surety for the whole
2 term of the notary's commission, terminating on its expiration date,
3 with payment of the bond's principal to any person conditioned upon
4 the notary's misconduct as defined in Section 33104 of this Chapter.
5 The bond shall not be canceled, revoked or modified without the express
6 written authorization of the Attorney General, which shall be given
7 only in extraordinary circumstances."

8 **Section 5.** 5 GCA §33211 is amended to read:

9 "§33211. **Statement of Personal Qualifications.** The application
10 must show:

- 11 (1) The applicant's age;
- 12 (2) The applicant's residence and business address in Guam;
- 13 (3) That the applicant can read and write English;
- 14 (4) All criminal convictions of the applicant, including any pleas
15 of guilty and nolo contendere or no contest; and
- 16 (5) All issuances, denials, revocations, suspensions, restrictions
17 and resignations of a notarial commission or other professional
18 license involving the applicant in Guam or in any state."

19 **Section 6.** 5 GCA §33214 is amended to read:

20 "§33214. **Fees.** Every applicant for a notarial commission shall pay
21 to the Treasurer of Guam a nonrefundable fee of Fifty Dollars (\$50). All
22 fees shall be deposited into the Notary Public Revolving Fund."

23 **Section 7.** 5 GCA §33220 is amended to read:

24 "§33220. **Government employees.** (a) The Attorney General may
25 commission any number of government employees to act as notaries,
26 but notaries so empowered may perform notarial acts only during their
27 hours of employment with their respective government agencies. Such

1 acts include the notarization for members of the public or for fellow
2 employees, of any forms or statements which any government agency
3 requires before transmittal from or submission to such agency, or any
4 other notarial act; provided, however, that such government employees
5 may charge no fees for notarial services.

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

9 (c) Except as provided in this section, an applicant for a notarial
10 commission under this section must meet the requirements in Sections
11 33210 through 33215 of this Chapter. The application shall include a
12 written declaration signed by the applicant's department or agency
13 head stating that the commissioning is in the public interest. The fee
14 imposed in Section 33214 of this Chapter is waived for employees of the
15 government of Guam.

16 (d) The premium on the bond and costs of all notarial supplies for
17 a notary empowered under this section shall be paid from funds of the
18 notary's government agency.

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

21 (f) Upon leaving their employment with the government of
22 Guam, notaries empowered under this section shall resign their
23 commissions immediately and dispose of their journals and seals as
24 provided in Sections 33553 and 33554 of this Chapter.

25 (g) Unless otherwise specified in this section, a notary
26 empowered under this section shall comply with all provisions of this
27 Chapter."

1 **Section 8.** 5 GCA §33302 is amended to read:

2 "§33302. **Disqualifications.** A notary is disqualified from
3 performing notarial acts if the notary:

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

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

11 (3) Is related to the person whose signature is to be notarized as
12 a spouse, sibling, or lineal ascendant or descendant as defined in
13 15 GCA §809 of the Estates & Probate Code of Guam."

14 **Section 9.** 5 GCA §33310 is amended to read:

15 "§33310. **Fees.** (a) Subject to the provisions contained in this
16 section, every Notary Public may demand and receive the following
17 fees:

18 (1) For taking acknowledgment or proof of a deed or other
19 instrument, to include the seal and writing of the certificate, for
20 the first two (2) signatures, Ten Dollars (\$10) each; and for each
21 additional signature, Eight Dollars (\$8);

22 (2) For administering an oath or affirmation, Ten Dollars (\$10);

23 (3) For every certificate of a certified true copy, and the seal,
24 Ten Dollars (\$10).

25 Provided, however, that in no event may a Notary Public who is an
26 employee of the government of Guam demand or receive any fee or
27 compensation of any kind for performing any duty of a Notary Public

1 during normal hours of work in his or her employment by the
2 government.

3 (b) A notary may charge a reasonable travel fee when traveling to
4 perform a notarial act if:

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

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

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

15 **Section 10.** 5 GCA §33402 is amended to read:

16 "§33402. **Entries in journal.** (a) For every notarial act, the notary
17 shall record in the journal before the time of notarization at least the
18 following:

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

20 (2) The type of notarial act;

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

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

24 (5) The evidence of identity of each person for whom a notarial
25 act is performed, in the form of a description of the identification
26 document, its issuing agency, its serial or identification number,

1 and the date of its issuance if expired, or a statement by the notary
2 that he or she has personal knowledge of identity of the person;

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

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

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

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

11 **Section 11.** 5 GCA §33404 is amended to read:

12 "§33404. **Inspection, copying and disposal of journal.** (a) Except as
13 otherwise provided in subsection (e) of this section, and
14 notwithstanding 5 GCA, Chapter 10 or any other law, a journal of
15 notarial acts is an official public record that may be inspected only in the
16 notary's presence by an individual whose identity is personally known
17 to the notary or proven on the basis of satisfactory evidence, who
18 specifies the notarial act sought, and who signs the notary's journal.

19 (b) Upon request in compliance with subsection (a) of this section,
20 the notary shall provide a photocopy of an entry in the journal at a cost
21 of not more than Five Dollars (\$5) per photocopy. If a certified
22 photocopy is requested, the cost is as specified in Section 33310 of this
23 Chapter.

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

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

4 (e) Upon the request of the Attorney General or upon resignation,
5 revocation, or expiration of a notarial commission, or death of the
6 notary, whichever comes first, the notarial journal shall be delivered by
7 personal service, certified mail or other means providing a receipt to
8 the Attorney General's office."

9 **Section 12.** 5 GCA §33412 is amended to read:

10 "§33412. **Notarial seals.** (a) Near the notary's official signature on
11 a notarial certificate, the notary shall affix in black ink a sharp, legible,
12 and photographically reproducible inked stamp impression of the
13 notarial seal that must include the following elements:

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

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

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

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

21 (b) Illegible information within an inked stamp impression of the
22 notarial seal may be typed or printed legibly by the notary adjacent to
23 but not within the impression. The commission expiration date must be
24 an integral part of the inked stamp notarial seal and may not be
25 inserted into the impression.

26 (c) An embossed seal impression that may be photographically
27 reproducible and which shall contain the words "Notary Public in and

1 for the Territory of Guam, USA," and the notary's name exactly as
2 indicated on the commission shall be used in addition to but not in lieu of
3 the seal described in subsection (a)."

4 **Section 13.** 5 GCA §33520 is amended to read:

5 "§33520. **Impersonation.** Any person not a notary who knowingly
6 acts as or otherwise impersonates a notary is guilty of a third degree
7 felony. Impersonation includes performing notarial acts when the
8 commission of the person performing has expired or been revoked or
9 the person has resigned his or her commission."

10 **Section 14.** A new 5 GCA §33556 is added to read:

11 "§33556. **Copying Fees.** Notwithstanding 5 GCA §10203, or any
12 other law, the Attorney General may charge a copying fee not to
13 exceed Two Dollars (\$2) for the first page of any requested document
14 under this Chapter, such as Notarial Commissions, Certificates of
15 Authority and the Model Notary Law, not to exceed One Dollar (\$1) for
16 each additional page. All fees shall be deposited into the Fund."

17 **Section 15.** 5 GCA §33601 is amended to read:

18 "§33601. **Evidence of authenticity of notarial act.** (a) The
19 authenticity of the official notarial seal and signature of a notary of
20 Guam may be evidenced by:

21 (1) A Certificate of Authority from the Attorney General,
22 authenticated as necessary; or

23 (2) An Apostille from the Attorney General in the form
24 prescribed by the Hague Convention Abolishing the Requirement
25 of Legalization for Foreign Public Documents of October 5, 1961.

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

4 (b) The Attorney General may charge a Twenty-five Dollar (\$25)
5 non-refundable fee for a Certificate of Authority or an Apostille. Such
6 fees shall be deposited into the Fund."

7 **Section 16.** 5 GCA § 33603 is amended to read:

8 "§33603. **Apostille.** An Apostille prescribed by the Hague
9 Convention, as cited in 28 U.S.C.A. in the annotations to Rule 44 of the
10 Federal Rules of Civil Procedure, must be in the form of a square with
11 sides at least nine (9) centimeters long and contain exactly the following
12 wording:

13 "APOSTILLE

14 (Convention de La Haye du 5 octobre 1961)

15 1. Country: United States of America

16 This public document

17 2. has been

18 signed by _____

19 3. acting in

20 the capacity of _____

21 4. bears the seal/stamp of _____

22 CERTIFIED

23 5. at _____ 6. the _____

24 7. by _____

25 8. No. _____

26 9. Seal/Stamp 10. Signature

27 _____"

TWENTY-THIRD GUAM LEGISLATURE

1996 (SECOND) Regular Session

6

Date: 2/28/96

VOTING SHEET

Bill No. 354
 Resolution No. _____
 Question: _____

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>ABSENT/ OUT DURING ROLL CALL</u>
ADA, Thomas C.	✓			
AGUON, John P.	✓			
BARRETT-ANDERSON, Elizabeth	✓			
BLAZ, Anthony C.	✓			
BROWN, Joanne S.	✓			
CAMACHO, Felix P.	✓			
CHARFAUROS, Mark C	✓			
CRISTOBAL, Hope A.	✓			
FORBES, MARK	✓			
LAMORENA, Alberto C., V	✓			
LEON GUERRERO, Carlotta	✓			
LEON GUERRERO, Lou	✓			
NELSON, Ted S.	✓			
ORSINI, Sonny L.	✓			
PANGELINAN, Vicente C	✓			
PARKINSON, Don	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Angel L. G.	✓			
SANTOS, Francis E.	✓			
UNPINGCO, Antonio R.	✓			
WONPAT-BORJA, Judith	✓			

TOTAL 21 0 0 0

CERTIFIED TRUE AND CORRECT:

 Recording Secretary

PC 33-81

Senator Mark C. Charfauros

Chairman

Committee on Judiciary, Criminal Justice, and Environmental Affairs Twenty-Third Guam Legislature

Ada's Commercial and Professional Center
138 East Marine Drive, Suite 101C-Annex
Agana, Guam 96910

Tel: (671) 472-3342/3/5
Fax: (671) 472-3440
E-Mail: markchar@uog.edu

February 12, 1996

SPEAKER DON PARKINSON
Twenty-Third Guam Legislature
155 Hesler St.
Agana, Guam 96910

Dear Mr. Speaker:

The Committee on Judiciary, Criminal Justice and Environmental Affairs to which was referred **Bill No. 354** As substituted by the Committee, "AN ACT TO AMEND CHAPTER 33 AND ADD NEW §§ 33106 AND 33556, ALL OF TITLE 5 GUAM CODE ANNOTATED, RELATIVE TO NOTARIES PUBLIC."

The voting record is as follows:

TO PASS	<u>10</u>
NOT TO PASS	<u>0</u>
ABSTAIN	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>

Copies of the Committee Report and other pertinent documents are attached.

Your attention to this matter is greatly appreciated.


MARK C. CHARFAUROS

Attachments.

Senator Mark C. Charfauros

Chairman

Committee on Judiciary, Criminal Justice, and Environmental Affairs Twenty-Third Guam Legislature

Ada's Commercial and Professional Center
138 East Marine Drive, Suite 101C-Annex
Agana, Guam 96910

Tel: (671) 472-3342/3/5
Fax: (671) 472-3440
E-Mail: markchar@uog9.uog.edu

February 9, 1996

MEMORANDUM

TO: Members

FROM: Chairman

SUBJECT: Committee Report - **Bill No. 354** As substituted by the Committee, "AN ACT TO AMEND CHAPTER 33 AND ADD NEW §§ 33106 AND 33556, ALL OF TITLE 5 GUAM CODE ANNOTATED, RELATIVE TO NOTARIES PUBLIC."

Transmitted herewith for your information and action is the Committee on Judiciary, Criminal Justice and Environmental Affairs' Report on the subject Bill.

The narrative report is accompanied by the following:

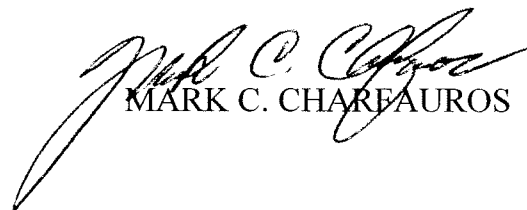
1. Original Bill 354; Bill 354 As substituted by the Committee;
2. Committee Voting Sheet;
3. Testimony and Sign-in Sheet
4. Public Hearing Notice.

Should you have any questions on the narrative report or the accompanying documents, I would be most happy to answer any of them.

Please take the appropriate action on the attached voting sheet and return the documents to my office for transmittal to the other members.




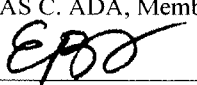
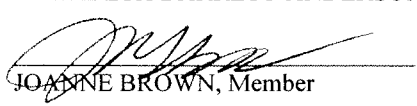
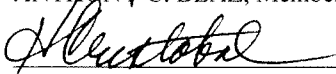
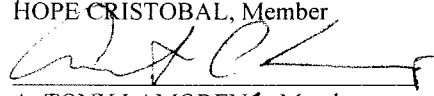
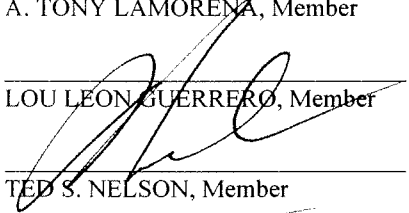

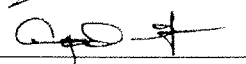
Your attention and cooperation in this matter is greatly appreciated.

Attachments.


MARK C. CHARFAUROS

**COMMITTEE ON JUDICIARY, CRIMINAL JUSTICE AND
ENVIRONMENTAL AFFAIRS
23rd Guam Legislature
VOTING RECORD**

Bill No. 354 As substituted by the Committee, "AN ACT TO AMEND CHAPTER 33 AND ADD NEW §§ 33106 AND 33556, ALL OF TITLE 5 GUAM CODE ANNOTATED, RELATIVE TO NOTARIES PUBLIC."

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>INACTIVE FILE</u>
 MARK C. CHARFAUROS, Chairman	✓	—	—	—
 JUDITH WONPAT-BORJA, Vice-Chairperson	✓	—	—	—
 THOMAS C. ADA, Member	✓	—	—	—
 ELIZABETH BARRETT-ANDERSON, Member	✓	—	—	—
 JOANNE BROWN, Member	✓	—	—	—
ANTHONY C. BLAZ, Member	—	—	—	—
 HOPE CRISTOBAL, Member	✓	—	—	—
 A. TONY LAMORENA, Member	✓	—	—	—
LOU LEON GUERRERO, Member	—	—	—	—
 TED S. NELSON, Member	✓	—	—	—
 VICENTE C. PANGELINAN, Member	✓	—	—	—
 ANGEL L.G. SANTOS, Member	✓	—	—	—
DON PARKINSON, Ex-Officio Member	—	—	—	—

COMMITTEE ON JUDICIARY, CRIMINAL
JUSTICE AND ENVIRONMENTAL
AFFAIRS

Twenty-Third Guam Legislature

COMMITTEE REPORT

on

Bill No. 354

As substituted by the Committee

“AN ACT TO AMEND CHAPTER 33 AND ADD NEW §§ 33106 AND 33556, ALL OF
TITLE 5 GUAM CODE ANNOTATED, RELATIVE TO NOTARIES PUBLIC.”

January 24, 1996

I. OVERVIEW

The Committee on Judiciary, Criminal Justice and Environmental Affairs scheduled a public hearing on January 24, 1995 at 9:30 a.m. at the Legislative Public Hearing Room. Public notice was announced on the January 23, 1996 issue of the PDN. Members present were:

Senator Mark C. Charfauros, Chairman
Senator Ted Nelson
Senator Tom Ada
Senator Elizabeth Barret-Anderson
Senator Joanne Brown
Senator Tony Blaz
Senator Ben Pangelinan
Senator Tony Unpingco, nonmember

Appearing before the Committee to testify on the bill were:

Vance J.I. Guerena, Assistant Attorney General; **oral, written.**
Carmen Cruz, Notary specialist, Attorney General's Office; **oral.**
Charles Troutman, Compiler of Laws; **oral.**
Rufo Lujan, private citizen; **oral.**
Dolores Anderson Muna, Notary Specialist; **oral.**
Romona Perez, Government of Guam Notary Public; **oral.**

II. SUMMARY OF TESTIMONY

Vance J.I. Guerena, Assistant Attorney General, testified in favor of Bill 354. He stated that his office worked closely with Senator Barret-Anderson in the initial and post stages of this Bill. Mr. Guerena submitted a substitute Bill to the Committee as written testimony. He asked the Committee to substitute the Bill in place of the original Bill, stating that Senator Barret-Anderson is in agreement with such action. He further stated that the substitute Bill would address many concerns that surfaced during conferences on the Bill; **oral, written, attached.**

Carmen Cruz, Notary specialist, Attorney General's Office, testified in favor of Bill 354. She stated that with the current law, when private individuals come into her office for a notary public, her governmental work is interrupted; **oral.**

Charles Troutman, Compiler of Laws, testified in favor of the original Bill 354. He stated that he has not seen the substituted Bill, but did participate in the development of Bill 354. He stated that a government notary should be used as a governmental service for business related to the agency providing such service; **oral.**

Rufo Lujan, private citizen, testified regarding Section 33302, Disqualifications. He stated that Guam has unique cultural practices where descendancy is based not only on blood, but also on unique circumstances where the individuals are reared or raised by others; **oral.**

Dolores Anderson Muna, Notary Specialist, testified in support of Bill 354, and the changes submitted to the Committee; **oral.**

Romona Perez, Government of Guam Notary Public, testified in support of Bill 354 and the changes submitted by to the Committee. She suggested that Section 332220 be reviewed and amended to reflect more detailed and specific language; **oral.**

III. FINDING AND RECOMMENDATION

The Committee finds that Guam's Model Notary Law, in effect for two years, needs amendments in order to fully accomplish the goals and objectives of such a law. The Committee finds that the Attorney General's Office has worked closely with the author of the bill to develop such amendments to the law. The Committee finds that the Attorney General's Office has submitted a substitute Bill as written testimony, which would fully incorporate all the needed changes to the law.

The Committee finds that Bill 354 as substituted by the Committee would accomplish the original intention of the law. The Committee further finds that Bill 354 as substituted by the Committee has received only favorable testimony from the public, and would help alleviate some of the problems encountered in the initial implementation of the Notary Public Law.

Accordingly, the Committee on Judiciary, Criminal Justice and Environmental Affairs, to which was referred **Bill No. 354**, does hereby submit its findings and recommendation to the Twenty-Third Guam Legislature **TO DO PASS Bill No. 354** As substituted by the Committee, "AN ACT TO AMEND CHAPTER 33 AND ADD NEW §§ 33106 AND 33556, ALL OF TITLE 5 GUAM CODE ANNOTATED, RELATIVE TO NOTARIES PUBLIC."



COMMITTEE ON RULES

Twenty-Third Guam Legislature
155 Hesler St., Agana, Guam 96910

September 5, 1995

MEMORANDUM

TO: Chairman, Committee on Judiciary, Criminal Justice
and Environmental Affairs

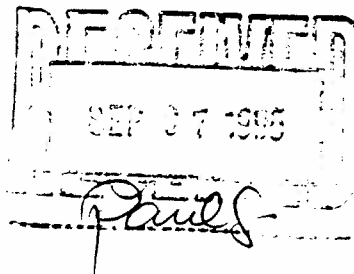
FROM: Chairman, Committee on Rules

SUBJECT: Referral - Bill No. 354

The above Bill is referred to your Committee as the principal committee. Please note that the referral is subject to ratification by the Committee on Rules at its next meeting. It is recommended you schedule a public hearing at your earliest convenience.


SONNY LUJAN ORSINI

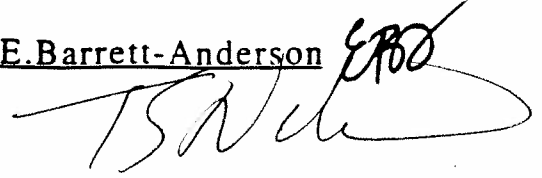
Attachment:



TWENTY THIRD GUAM LEGISLATURE
(1995) FIRST REGULAR SESSION

BILL NO. 354

Introduced by: E. Barrett-Anderson



AN ACT TO AMEND CHAPTER 33 TITLE
5 GUAM CODE ANNOTATED RELATIVE
TO NOTARIES PUBLIC

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

2

3 **Section 1. Legislative Intent.** The Legislature finds that
4 Guam's Notary Law has been in effect for two years, and during the
5 course of the implementation the Attorney General's Office has
6 requested certain changes to the present law to address particular
7 defects and problems that have arisen. It is in the best interest of the
8 people to address these changes as recommended by the Attorney
9 General.

10 **Section 2.** New subsections (12) and (13) are hereby added
11 to Section 33104 of Title 5, Guam Code, Annotated, to read:

12 "(12) "Fund" means the Notary Public Revolving Fund as
13 set forth in this Chapter.

14 "(13) "Nolo Contendere" means a person who does not
15 contest a criminal charge."

1 **Section 3.** A new Section 33106 is added to Title 5, Guam
2 Code Annotated, to read:

3 “Section 33106. **Notary Public Revolving Fund.**

4 There is established a fund to be known as the “Notary Public
5 Revolving Fund”, (the “Fund”) which shall be maintained separate
6 and apart from other funds of the government of Guam. All fees
7 generated from fees under this Chapter for application,
8 authentication, copying, and any other fee required herein shall be
9 deposited into the Fund. The Fund shall be used by the Attorney
10 General for the purpose of the administration of the notary program
11 under the authority of the Department of Law, including personnel
12 costs for training, notary educational programs and conferences, and
13 any administrative costs.

14 **Section 4.** Section 33214 of Title 5 Guam Code Annotated is
15 amended as follows:

16 “Section 332114. **Fees.** Every applicant for a notarial
17 commission shall pay to the Treasure of Guam a nonrefundable fee
18 of Twenty-Five Dollars (\$25) Fifty Dollars (\$50). All fees shall be
19 deposited into the Notary Public Revolving Fund.

20 **Section 5.** Subsection (3) of Section 33302 Title 5 Guam Code
21 Annotated is amended to read:

1 “(3) Is related to the person whose signature is to be
2 notarized as a spouse, sibling, [~~or lineal ascendant or descendant,~~]
3 parents, step-parents, children or step-children.”

4 **Section 6.** Subsection (c) of Section 33412 Title 5 Guam Code
5 Annotated is amended to read:

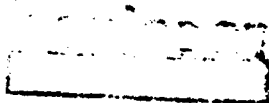
6 “(c) An embossed seal impression that is not
7 photographically reproducible and which shall contain the words
8 “Notary Public in and for the Territory of Guam, USA.” and the name
9 of the Notary as set forth in the application shall be used in addition
10 to but not in lieu of the seal described in subsection (a).”

11 **Section 7.** A new Section 33556 is added to Title 5 Guam Code
12 Annotated to read:

13 “Section 33556. Copying Fees. Notwithstanding Section
14 10203 of Article 2, Chapter 10 of this Title, or any other provision of
15 law, the Attorney General may charge a copying fee not to exceed
16 Two Dollars (\$2.00) for the first page of any requested document
17 under this Chapter, and not to exceed One Dollar (\$1.00) for each
18 additional page. All fees shall be deposited into the Fund.

19 **Section 8.** A new Subsection (b) is added to Section 33601
20 Title 5 GCA to read:

1 “(b) The Attorney General may charge a Fifteen Dollar
2 (\$15.00) non-refundable fee for a certificate of authority or a
3 apostle. Such fees shall be deposited into the Fund.”



**TWENTY THIRD GUAM LEGISLATURE
(1996) SECOND REGULAR SESSION**

Bill No. 354
As substituted by the Committee
on Judiciary, Criminal Justice
and Environmental Affairs

Introduced by:

E. Barret-Anderson

A.R. Blaz



AN ACT TO AMEND CHAPTER 33 AND ADD NEW §§ 33106 AND 33556, ALL OF TITLE 5 GUAM CODE ANNOTATED, RELATIVE TO NOTARIES PUBLIC.

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

2 Section 1. **Legislative Intent.** The Legislature finds that Guam's Model Notary Law, 5
3 GCA, Chapter 33, has been in effect for more than two years, and during the course of its
4 implementation the Attorney General's Office has discovered that certain amendments and additions
5 to the Model Notary Law are required in order for the goals and objectives of the act to be more
6 effectively and efficiently carried out. The Office of the Attorney General is requesting that the
7 amendments and additions set forth in this bill be incorporated into the Model Notary Act. It is in
8 the best interests of the people to address these changes and clarify the law as recommended by the
9 Attorney General.

10 Section 2. 5 GCA §33104 is amended to read:

11 "**§33104. Definitions.** As used in this Chapter:

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

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

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

3 (4) "A crime involving moral turpitude" includes any felony committed in Guam or any
4 crime committed outside Guam that would be a felony under Guam law, any crime involving
5 personal injury, and any crime involving a breach of official duty if done willfully.

6 (5) "Fund" means the Notary Public Revolving Fund as set forth in this Chapter.

7 [(4)] (6) "Jurat" means a notarial act in which a notary certifies that a signer, whose identity
8 is proven on the basis of satisfactory evidence, has made, in the notary's presence, a voluntary
9 signature and taken an oath or affirmation vouching for the truthfulness of the signed document.

10 [(5)] (7) "Notarial act" and "notarization" mean any act that a notary is empowered to
11 perform under Section 33301 of this Chapter.

12 [(6)] (8) "Notarial certificate" and "certificate" mean that part of or attachment to a notarized
13 document for completion by the notary and bearing the notary's signature and seal.

14 [(7)] (9) "Notary Public" and "notary" mean any person commissioned to perform notarial
15 acts under this Chapter.

16 [(8)] (10) "Oath" and "affirmation" mean a notarial act or part thereof in which a notary
17 certifies that a person made a vow in the presence of the notary on penalty of perjury, with reference
18 made to a Supreme Being for an oath.

19 [(9)] (11) "Official misconduct" means: (I) a notary's performance of or failure to perform
20 any act prohibited or mandated, respectively, by this Chapter or by any other law in connection with
21 a notarization; or (ii) a notary's performance of a notarial act in a manner found by the Attorney

1 General to be negligent or against the public interest.

2 (12) "Personal knowledge of identity" means familiarity with an individual resulting from
3 contact with that individual over a period of time sufficient to eliminate every reasonable doubt that
4 the individual has the identity claimed.

5 [(10)] (13) "Satisfactory evidence of identity" means identification of an individual based on:
6 (I) [a] any current passport or (ii) an official identification issued by a federal or state government
7 with the individual's photograph and signature or (iii) personal knowledge of identity.

8 [(11)] (14) "State" includes any state of the United States, any United States territory,
9 possession or commonwealth, and the District of Columbia."

10 Section 3. A new 5 GCA §33106 is added to read:

11 "**§33106. Notary Public Revolving Fund.** There is established a fund to be known as the
12 "Notary Public Revolving Fund," (the "Fund") which shall be maintained separate and apart from
13 other funds of the government of Guam. All funds generated from fees under this Chapter for
14 application, authentication, copying, and any other government fee required by this Chapter shall
15 be deposited into the Fund. The Fund shall be used by the Attorney General for the purpose of the
16 administration of the notary program, including personnel costs for training, notary educational
17 programs and conferences, and any administrative and equipment costs."

18 Section 4. 5 GCA §33203 is amended to read:

19 "**§33203. Bond.** No notarial commission may be issued unless the notary has produced, as
20 part of the application, evidence that, upon commissioning, a bond is in force in the sum of One
21 Thousand Dollars (\$1,000). The bond must be executed by a licensed surety for the whole term of

1 the notary's commission, terminating on its expiration date, with payment of the bond's principal to
2 any person conditioned upon the notary's misconduct as defined in Section 33104 of this Chapter.
3 The bond shall not be canceled, revoked or modified without the express written authorization of the
4 Attorney General, which shall be given only in extraordinary circumstances."

5 Section 5. 5 GCA §33211 is amended to read:

6 "**§33211. Statement of Personal Qualifications.** The application must [state, at least] show:

7 (1) The applicant's age;

8 (2) The applicant's residence and business address [or, if not a resident, the applicant's
9 business address] in Guam;

10 (3) That the applicant can read and write English;

11 (4) All criminal convictions of the applicant, including any pleas of guilty and nolo conten-
12 dere or no contest; and

13 (5) All issuances, denials, revocations, suspensions, restrictions and resignations of a notarial
14 commission or other professional license involving the applicant in Guam or in any state."

15 Section 6. 5 GCA §33214 is amended to read:

16 "**§33214. Fees.** Every applicant for a notarial commission shall pay to the Treasurer of Guam
17 a nonrefundable fee of [Twenty-Five] Fifty Dollars [(\$25)] (\$50). All fees shall be deposited into
18 the Notary Public Revolving Fund."

19 Section 7. 5 GCA §33220 is amended to read:

20 "**§33220. Government employees.** (a) The Attorney General may commission any number
21 of government employees to act as notaries, but notaries so empowered may perform notarial acts

1 only during their hours of employment with their respective government agencies. Such acts include
2 the notarization for members of the public or for fellow employees, of any forms or statements which
3 any government agency requires before transmittal from or submission to such agency, or any other
4 notarial act; provided, however, that such government employees may charge no fees for notarial
5 services.

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

9 (c) Except as provided in this section, an applicant for a notarial commission under this
10 section must meet the requirements in Sections 33210 through 33215 of this Chapter. The
11 application shall include a written declaration signed by the applicant's department or agency head
12 stating that the commissioning is in the public interest. The fee imposed in Section 33214 of this
13 Chapter is waived for employees of the government of Guam.

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

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

18 (f) Upon leaving their employment with the government of Guam, notaries empowered
19 under this section shall resign their commissions immediately and dispose of their journals and seals
20 as provided in Sections 33553 and 33554 of this Chapter.

21 (g) Unless otherwise specified in this section, a notary empowered under this section shall

1 comply with all provisions of this Chapter."

2 Section 8. 5 GCA §33302 is amended to read:

3 "**§33302. Disqualifications.** A notary is disqualified from performing [a] notarial acts if the
4 notary:

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

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

9 (3) Is related to the person whose signature is to be notarized as a spouse, sibling, or lineal
10 ascendant or descendant as defined in 15 GCA §809 of the Estates & Probate Code of Guam."

11 Section 9. 5 GCA §33310 is amended to read:

12 "**§33310. Fees.** (a) Subject to the provisions contained in this section, every Notary Public
13 may demand and receive the following fees:

14 (1) For taking acknowledgment or proof of a deed or other instrument, to include the seal and
15 writing of the certificate, for the first two (2) signatures, [Six] Ten Dollars [~~(\$6)~~] (\$10) each; and for
16 each additional signature, [Five] Eight Dollars [~~(\$5)~~] (\$8);

17 (2) For administering an oath or affirmation, [Six] Ten Dollars [~~(\$6)~~] (\$10);

18 (3) For every certificate of a certified true copy, and the seal, [Six] Ten Dollars [~~(\$6)~~] (\$10).

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

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

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

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

5 (c) The Attorney General shall annually review the fees set out in [paragraph] subsection (a)
6 of this section, and, after such review, if the Attorney General determines that such fees should be
7 altered, the Attorney General may do so in the manner and under the procedures set out in the
8 Administrative Adjudication Law."

9 Section 10. 5 GCA §33402 is amended to read:

10 "**§33402. Entries in journal.** (a) For every notarial act, the notary shall record in the journal
11 [at] before the time of notarization at least the following:

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

13 (2) The type of notarial act;

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

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

17 (5) The evidence of identity of each person for whom a notarial act is performed, in the form
18 of a description of the identification document, its issuing agency, its serial or identification number,
19 and the date of its issuance if expired, or a statement by the notary that he or she has personal
20 knowledge of identity of the person;

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

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

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

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

5 Section 11. 5 GCA §33404 is amended to read:

6 **"§33404. Inspection, copying and disposal of journal.** (a) Except as otherwise provided
7 in subsection (e) of this section, and notwithstanding 5 GCA, Chapter 10 or any other law, [A] a
8 journal of notarial acts is an official public record that may be inspected only in the notary's presence
9 by an individual whose identity is personally known to the notary or proven on the basis of
10 satisfactory evidence, who specifies the notarial act sought, and who signs the notary's journal.

11 (b) Upon request in compliance with subsection (a) of this section, the notary shall provide
12 a photocopy of an entry in the journal at a cost of not more than Five Dollars (\$5) per photocopy.
13 If a certified photocopy is requested, the cost is as specified in [§33210] Section 33310 of this
14 Chapter.

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

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

19 (e) [During the first week of January of each year] Upon the request of the Attorney General
20 or upon resignation, revocation, or expiration of a notarial commission, or death of the notary,
21 whichever comes first, the notarial journal [must] shall be delivered by personal service, certified

1 mail or other means providing a receipt to the Attorney General's office."

2 Section 12. 5 GCA §33412 is amended to read:

3 "**§33412. [Seal impression] Notarial seals.** (a) Near the notary's official signature on a
4 notarial certificate, the notary shall affix in black ink a sharp, legible, and photographically reproduc-
5 ible inked stamp impression of the notarial seal that must include the following elements:

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

7 (2) The words "Notary Public, in and for the Territory of Guam, U.S.A." and "My commis-
8 sion expires (commission expiration date)";

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

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

11 (b) Illegible information within [a seal] an inked stamp impression of the notarial seal may
12 be typed or printed legibly by the notary adjacent to but not within the impression. The commission
13 expiration date must be an integral part of the inked stamp notarial seal and may not be inserted into
14 the impression.

15 (c) An embossed seal impression that [is not] may be photographically reproducible and
16 which shall contain the words "Notary Public in and for the Territory of Guam, USA," and the
17 notary's name exactly as indicated on the commission shall be used in addition to but not in lieu of
18 the seal described in subsection (a)."

19 Section 13. 5 GCA §33520 is amended to read:

20 "**§33520. Impersonation.** Any person not a notary who knowingly acts as or otherwise
21 impersonates a notary is guilty of a third degree felony. Impersonation includes performing notarial

1 acts when the commission of the person performing has expired or been revoked or the person has
2 resigned his or her commission."

3 Section 14. A new 5 GCA §33556 is added to read:

4 "**§33556. Copying Fees.** Notwithstanding 5 GCA §10203, or any other law, the Attorney
5 General may charge a copying fee not to exceed Two Dollars (\$2) for the first page of any requested
6 document under this Chapter, such as Notarial Commissions, Certificates of Authority and the
7 Model Notary Law, not to exceed One Dollar (\$1) for each additional page. All fees shall be
8 deposited into the Fund."

9 Section 15. 5 GCA §33601 is amended to read:

10 "**§33601. Evidence of authenticity of notarial act.** (a) The authenticity of the official
11 notarial seal and signature of a notary of Guam may be evidenced by:

12 (1) A [c] Certificate of [a] Authority from the Attorney General, authenticated as necessary;

13 or

14 (2) An [a] Apostille from the Attorney General in the form prescribed by the Hague
15 Convention Abolishing the Requirement of Legalization for Foreign Public Documents of October
16 5, 1961.

17 (3) An [a] Apostille as specified by the Hague Convention must be attached to any document
18 requiring authentication that is sent to a nation that has signed and ratified the Convention.

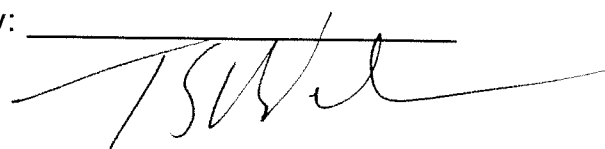
19 (b) The Attorney General may charge a Twenty-five Dollar (\$25) non-refundable fee for a
20 Certificate of Authority or an Apostille. Such fees shall be deposited into the Fund."

21 Section 16. 5 GCA § 33603 is amended to read:

TWENTY THIRD GUAM LEGISLATURE
(1996) SECOND REGULAR SESSION

Bill No. _____

Introduced by: _____



AN ACT TO AMEND CHAPTER 33 TITLE 5
GUAM CODE ANNOTATED REGARDING NOTARIES
PUBLIC; AMENDING 5 GCA §§ 33104,
33203, 33211, 33214, 33220, 33302, 33310,
33402, 33404, 33412, 33520, 33601, 33603; AND
CREATING NEW PROVISIONS 5 GCA §§ 33106, 33556

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

2 Section 1. **Legislative Intent.** The Legislature finds that Guam's Model Notary
3 Law, 5 GCA, Chapter 33, has been in effect for more than two years, and during the
4 course of its implementation the Attorney General's Office has discovered that certain
5 amendments and additions to the Model Notary Law are required in order for the goals
6 and objectives of the act to be more effectively and efficiently carried out. The Office of
7 the Attorney General is requesting that the amendments and additions set forth in this bill
8 be incorporated into the Model Notary Act. It is in the best interests of the people to
9 address these changes and clarify the law as recommended by the Attorney General.

10 Section 2. 5 GCA §33104 is amended to read:

11 "**§33104. Definitions.** As used in this Chapter:

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

15 (2) "Commission" means to empower to perform notarial acts and the written

1 authority to perform those acts.

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

4 (4) "A crime involving moral turpitude" includes any felony committed in Guam or
5 any crime committed outside Guam that would be a felony under Guam law, any crime
6 involving personal injury, and any crime involving a breach of official duty if done willfully.

7 (5) "Fund" means the Notary Public Revolving Fund as set forth in this Chapter.

8 [(4)] (6) "Jurat" means a notarial act in which a notary certifies that a signer, whose
9 identity is proven on the basis of satisfactory evidence, has made, in the notary's
10 presence, a voluntary signature and taken an oath or affirmation vouching for the
11 truthfulness of the signed document.

12 [(5)] (7) "Notarial act" and "notarization" mean any act that a notary is empowered
13 to perform under Section 33301 of this Chapter.

14 [(6)] (8) "Notarial certificate" and "certificate" mean that part of or attachment to a
15 notarized document for completion by the notary and bearing the notary's signature and
16 seal.

17 [(7)] (9) "Notary Public" and "notary" mean any person commissioned to perform
18 notarial acts under this Chapter.

19 [(8)] (10) "Oath" and "affirmation" mean a notarial act or part thereof in which a
20 notary certifies that a person made a vow in the presence of the notary on penalty of
21 perjury, with reference made to a Supreme Being for an oath.

22 [(9)] (11) "Official misconduct" means: (i) a notary's performance of or failure to

1 perform any act prohibited or mandated, respectively, by this Chapter or by any other law
2 in connection with a notarization; or (ii) a notary's performance of a notarial act in a
3 manner found by the Attorney General to be negligent or against the public interest.

4 (12) "Personal knowledge of identity" means familiarity with an individual resulting
5 from contact with that individual over a period of time sufficient to eliminate every
6 reasonable doubt that the individual has the identity claimed.

7 [(10)] (13) "Satisfactory evidence of identity" means identification of an individual
8 based on: (i) [a] any current passport or (ii) an official identification issued by a federal
9 or state government with the individual's photograph and signature or (iii) personal
10 knowledge of identity.

11 [(11)] (14) "State" includes any state of the United States, any United States
12 territory, possession or commonwealth, and the District of Columbia."

13 Section 3. A new 5 GCA §33106 is added to read:

14 **"§33106. Notary Public Revolving Fund.** There is established a fund to be
15 known as the "Notary Public Revolving Fund," (the "Fund") which shall be maintained
16 separate and apart from other funds of the government of Guam. All funds generated
17 from fees under this Chapter for application, authentication, copying, and any other
18 government fee required by this Chapter shall be deposited into the Fund. The Fund
19 shall be used by the Attorney General for the purpose of the administration of the notary
20 program, including personnel costs for training, notary educational programs and
21 conferences, and any administrative and equipment costs."

22 Section 4. 5 GCA §33203 is amended to read:

1 **"§33203. Bond.** No notarial commission may be issued unless the notary has
2 produced, as part of the application, evidence that, upon commissioning, a bond is in
3 force in the sum of One Thousand Dollars (\$1,000). The bond must be executed by a
4 licensed surety for the whole term of the notary's commission, terminating on its
5 expiration date, with payment of the bond's principal to any person conditioned upon the
6 notary's misconduct as defined in Section 33104 of this Chapter. The bond shall not be
7 cancelled, revoked or modified without the express written authorization of the Attorney
8 General, which shall be given only in extraordinary circumstances."

9 Section 5. 5 GCA §33211 is amended to read:

10 **"§33211. Statement of Personal Qualifications.** The application must [state, at
11 least] show:

12 (1) The applicant's age;

13 (2) The applicant's residence and business address [or, if not a resident, the
14 applicant's business address] in Guam;

15 (3) That the applicant can read and write English;

16 (4) All criminal convictions of the applicant, including any pleas of guilty and nolo
17 contendere or no contest; and

18 (5) All issuances, denials, revocations, suspensions, restrictions and resignations
19 of a notarial commission or other professional license involving the applicant in Guam or
20 in any state."

21 Section 6. 5 GCA §33214 is amended to read:

22 **"§33214. Fees.** Every applicant for a notarial commission shall pay to the

1 Treasurer of Guam a nonrefundable fee of [Twenty-Five] Fifty Dollars [(\$25)] (\$50). All
2 fees shall be deposited into the Notary Public Revolving Fund."

3 Section 7. 5 GCA §33220 is amended to read:

4 "**§33220. Government employees.** (a) The Attorney General may commission any
5 number of government employees to act as notaries, but notaries so empowered may
6 perform notarial acts only during their hours of employment with their respective
7 government agencies. Such acts include the notarization for members of the public or
8 for fellow employees, of any forms or statements which any government agency requires
9 before transmittal from or submission to such agency, or any other notarial act; provided,
10 however, that such government employees may charge no fees for notarial services.

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

14 (c) Except as provided in this section, an applicant for a notarial commission under
15 this section must meet the requirements in Sections 33210 through 33215 of this Chapter.
16 The application shall include a written declaration signed by the applicant's department
17 or agency head stating that the commissioning is in the public interest. The fee imposed
18 in Section 33214 of this Chapter is waived for employees of the government of Guam.

19 (d) The premium on the bond and costs of all notarial supplies for a notary
20 empowered under this section shall be paid from funds of the notary's government
21 agency.

22 (e) No fees may be charged for notarial services performed by a notary

1 empowered under this section.

2 (f) Upon leaving their employment with the government of Guam, notaries
3 empowered under this section shall resign their commissions immediately and dispose
4 of their journals and seals as provided in Sections 33553 and 33554 of this Chapter.

5 (g) Unless otherwise specified in this section, a notary empowered under this
6 section shall comply with all provisions of this Chapter."

7 Section 8. 5 GCA §33302 is amended to read:

8 "**§33302. Disqualifications.** A notary is disqualified from performing [a] notarial
9 acts if the notary:

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

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

15 (3) Is related to the person whose signature is to be notarized as a spouse,
16 sibling, or lineal ascendant or descendant as defined in 15 GCA §809 of the Estates &
17 Probate Code of Guam."

18 Section 9. 5 GCA §33310 is amended to read:

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

21 (1) For taking acknowledgement or proof of a deed or other instrument, to include
22 the seal and writing of the certificate, for the first two (2) signatures, [Six] Ten Dollars

1 ~~[(6)]~~ (\$10) each; and for each additional signature, ~~[Five]~~ Eight Dollars ~~[(5)]~~ (\$8);

2 (2) For administering an oath or affirmation, ~~[Six]~~ Ten Dollars ~~[(6)]~~ (\$10);

3 (3) For every certificate of a certified true copy, and the seal, ~~[Six]~~ Ten Dollars
4 ~~[(6)]~~ (\$10).

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

9 (b) A notary may charge a reasonable travel fee when traveling to perform a notarial
10 act if:

11 (1) The notary explains to the person requesting the notarial act that the travel fee
12 is separate from the notarial fee in subsection (a) of this section and is neither specified
13 nor mandated in law; and

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

16 (c) The Attorney General shall annually review the fees set out in [paragraph]
17 subsection (a) of this section, and, after such review, if the Attorney General determines
18 that such fees should be altered, the Attorney General may do so in the manner and
19 under the procedures set out in the Administrative Adjudication Law."

20 Section 10. 5 GCA §33402 is amended to read:

21 "**§33402. Entries in journal.** (a) For every notarial act, the notary shall record in
22 the journal [at] before the time of notarization at least the following:

1 (1) The date and time of day of the notarial act;
2 (2) The type of notarial act;
3 (3) A description of the document or proceeding;
4 (4) The signature and printed name and address of each person for whom a
5 notarial act is performed;

6 (5) The evidence of identity of each person for whom a notarial act is performed,
7 in the form of a description of the identification document, its issuing agency, its serial or
8 identification number, and the date of its issuance if expired, or a statement by the notary
9 that he or she has personal knowledge of identity of the person;

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

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

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

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

17 Section 11. 5 GCA §33404 is amended to read:

18 "**§33404. Inspection, copying and disposal of journal.** (a) Except as otherwise
19 provided in subsection (e) of this section, and notwithstanding 5 GCA, Chapter 10 or any
20 other law, [A] a journal of notarial acts is an official public record that may be inspected
21 only in the notary's presence by an individual whose identity is personally known to the
22 notary or proven on the basis of satisfactory evidence, who specifies the notarial act

1 sought, and who signs the notary's journal.

2 (b) Upon request in compliance with subsection (a) of this section, the notary shall
3 provide a photocopy of an entry in the journal at a cost of not more [then] than Five
4 Dollars (\$5) per photocopy. If a certified photocopy is requested, the cost is as specified
5 in [§33210] Section 33310 of this Chapter.

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

8 (d) The journal must be kept in the exclusive custody of the notary, and may not
9 be used by any other notary or surrendered to an employer upon termination of employ-
10 ment.

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

16 Section 12. 5 GCA §33412 is amended to read:

17 "**§33412. [Seal impression] Notarial seals**. (a) Near the notary's official signature
18 on a notarial certificate, the notary shall affix in black ink a sharp, legible, and
19 photographically reproducible inked stamp impression of the notarial seal that must
20 include the following elements:

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

22 (2) The words "Notary Public, in and for the Territory of Guam, U.S.A." and "My

1 commission expires (commission expiration date)";

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

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

4 (b) Illegible information within [a seal] an inked stamp impression of the notarial
5 seal may be typed or printed legibly by the notary adjacent to but not within the
6 impression. The commission expiration date must be an integral part of the inked stamp
7 notarial seal and may not be inserted into the impression.

8 (c) An embossed seal impression that [is not] may be photographically reproducible
9 and which shall contain the words "Notary Public in and for the Territory of Guam, U.S.A."
10 and the notary's name exactly as indicated on the commission shall be used in addition
11 to but not in lieu of the seal described in subsection (a) of this section."

12 Section 13. 5 GCA §33520 is amended to read:

13 "**§33520. Impersonation.** Any person not a notary who knowingly acts as or
14 otherwise impersonates a notary is guilty of a third degree felony. Impersonation includes
15 performing notarial acts when the commission of the person performing has expired or
16 been revoked or the person has resigned his or her commission."

17 Section 14. A new 5 GCA §33556 is added to read:

18 "**§33556. Copying Fees.** Notwithstanding 5 GCA §10203, or any other law, the
19 Attorney General may charge a copying fee not to exceed Two Dollars (\$2) for the first
20 page of any requested document under this Chapter, such as Notarial Commissions,
21 Certificates of Authority and the Model Notary Law, not to exceed One Dollar (\$1) for
22 each additional page. All fees shall be deposited into the Fund."

1 Section 15. 5 GCA §33601 is amended to read:

2 **"§33601. Evidence of authenticity of notarial act.** (a) The authenticity of the
3 official notarial seal and signature of a notary of Guam may be evidenced by:

4 (1) A [c]Certificate of [a]Authority from the Attorney General, authenticated as
5 necessary; or

6 (2) An [a]Apostille from the Attorney General in the form prescribed by the Hague
7 Convention Abolishing the Requirement of Legalization for Foreign Public Documents of
8 October 5, 1961.

9 (3) An [a]Apostille as specified by the Hague Convention must be attached to any
10 document requiring authentication that is sent to a nation that has signed and ratified the
11 Convention.

12 (b) The Attorney General may charge a Twenty-five Dollar (\$25) non-refundable
13 fee for a Certificate of Authority or an Apostille. Such fees shall be deposited into the
14 Fund."

15 Section 16. 5 GCA § 33603 is amended to read:

16 **"§33603. Apostille.** An [a]Apostille prescribed by the Hague Convention, as cited
17 in 28 U.S.C.A. in the annotations to Rule 44 of the Federal Rules of Civil Procedure, must
18 be in the form of a square with sides at least nine (9) centimeters long and contain
19 exactly the following wording:

20 "APOSTILLE

21 (Convention de La Haye du 5 octobre 1961)

22 1. Country: United States of America



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This public document
has been
signed by _____
acting in
the capacity of _____
bears the seal/stamp of _____

CERTIFIED

5. at _____ 6. the _____
7. by _____
8. No. _____

9. Seal/Stamp 10. Signature

Copy

Notice of Public Hearing



**Senator
Mark C. Charfauros**

**Chairman, Committee on Judiciary,
Criminal Justice and Environmental Affairs
Twenty-Third Guam Legislature**

**9:30 a.m.
Agenda**

Bill No. 354, AN ACT TO AMEND CHAPTER 33 TITLE 5 GUAM CODE ANNOTATED RELATIVE TO NOTARIES PUBLIC.

Bill No. 357, AN ACT TO ADD A NEW SECTION 1658 OF TITLE 1 GUAM CODE ANNOTATED RELATIVE TO ESTABLISHING THE GUAM CODE COMMISSION.

Bill No. 392 (AS AMENDED BY THE AUTHOR), AN ACT TO REPEAL AND REENACT §46.30 OF TITLE 9, GCA, RELATIVE TO THE ISSUANCE OF BAD CHECKS.

Bill No. 453, AN ACT TO PERMIT GUAM POLICE DEPARTMENT OFFICERS TO USE THEIR PERSONAL VEHICLES FOR OFFICIAL PURPOSES.

Date: Wednesday, January 24, 1996

Time: 9:30 a.m.

Place: Public Hearing Room, Guam Legislature
155 Hesler St., Agana

The Public is invited to attend

*Rundate
1/23/96*

*Plc. Rita Lando 4:50 pm
1/15/96*

FISCAL NOTE
BUREAU OF BUDGET AND MANAGEMENT RESEARCH

BBMR-F7

DEC 06 1995

Bill No. 354

Date Received: December 1, 1995

Amendatory Bill: Yes

Date Reviewed: December 4, 1995

Department/Agency Affected: Department of Law

Department/Agency Head: Calvin Holloway

Total FY Appropriation to Date: \$6,536,060

Bill Title (preamble): AN ACT TO REPEAL AND REENACT SECTION 30102 OF TITLE 5 GUAM CODE ANNOTATED RELATIVE TO THE AUTHORITY OF THE ATTORNEY GENERAL.

Change in Law: Amends Chapter 33 of Title 5 of the Guam Code Annotated

Bill's Impact on Present Program Funding:

Increase X Decrease _____ Reallocation _____ No Change _____

Bill is for:

Operations X Capital Improvement _____ Other _____

FINANCIAL/PROGRAM IMPACT

ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)

PROGRAM CATEGORY	GENERAL FUND	OTHER	TOTAL
Public Safety	See attached comments.		

ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)

FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL						
OTHER						
TOTAL						

FUNDS ADEQUATE TO COVER INTENT OF THE BILL? N/A -- IF NO, ADD'L AMOUNT REQUIRED \$ _____

AGENCY/PERSON/DATE CONTACTED: See attached comments.

ESTIMATED POTENTIAL MULTI-YEAR REVENUES

FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND						
OTHER						
TOTAL						

ANALYST Carlos P. Bordallo DATE _____

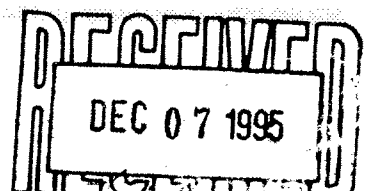
Carlos P. Bordallo

DIRECTOR _____ DATE _____

JOSEPH E. RIVERA

DATE _____

DEC 06 1995



Comments on Bill No. 354

The Bill proposes to amend current administrative provisions and increase the application fee, to become a notary, from twenty five dollars (\$25) to fifty dollars (\$50). In addition, the Bill proposes to effect copying fees for any document requested under Chapter 33 of Title 5 of the GCA.

The amended administrative provisions appear to clarify and reinforce the integrity of notarial requirements while the charges and fees provide additional income to assist in the administration of the notary program. If enacted into law, there is no foreseen adverse impact to the General Fund.

SEP 11 1995

TWENTY THIRD GUAM LEGISLATURE
(1995) FIRST REGULAR SESSION

BILL NO. 354 (LS)

Introduced by: E. Barrett-Anderson

EPA

AN ACT TO AMEND CHAPTER 33 TITLE
5 GUAM CODE ANNOTATED RELATIVE
TO NOTARIES PUBLIC

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

2

3 **Section 1. Legislative Intent.** The Legislature finds that
4 Guam's Notary Law has been in effect for two years, and during the
5 course of the implementation the Attorney General's Office has
6 requested certain changes to the present law to address particular
7 defects and problems that have arisen. It is in the best interest of the
8 people to address these changes as recommended by the Attorney
9 General.

10 **Section 2.** New subsections (12) and (13) are hereby added
11 to Section 33104 of Title 5, Guam Code, Annotated, to read:

12 "(12) "Fund" means the Notary Public Revolving Fund as
13 set forth in this Chapter.

14 "(13) "Nolo Contendere" means a person who does not
15 contest a criminal charge."

1 **Section 3.** A new Section 33106 is added to Title 5, Guam
2 Code Annotated, to read:

3 “Section 33106. **Notary Public Revolving Fund.**

4 There is established a fund to be known as the “Notary Public
5 Revolving Fund”, (the “Fund”) which shall be maintained separate
6 and apart from other funds of the government of Guam. All fees
7 generated from fees under this Chapter for application,
8 authentication, copying, and any other fee required herein shall be
9 deposited into the Fund. The Fund shall be used by the Attorney
10 General for the purpose of the administration of the notary program
11 under the authority of the Department of Law, including personnel
12 costs for training, notary educational programs and conferences, and
13 any administrative costs.

14 **Section 4.** Section 33214 of Title 5 Guam Code Annotated is
15 amended as follows:

16 “Section 33214. **Fees.** Every applicant for a notarial
17 commission shall pay to the Treasure of Guam a nonrefundable fee
18 of Twenty-Five Dollars (\$25) Fifty Dollars (\$50). All fees shall be
19 deposited into the Notary Public Revolving Fund.

20 **Section 5.** Subsection (3) of Section 33302 Title 5 Guam Code
21 Annotated is amended to read:

1 “(3) Is related to the person whose signature is to be
2 notarized as a spouse, sibling, or lineal ascendant or descendant,
3 parents, step-parents, children or step-children.”

4 **Section 6.** Subsection (c) of Section 33412 Title 5 Guam Code
5 Annotated is amended to read:

6 “(c) An embossed seal impression that is not
7 photographically reproducible and which shall contain the words
8 “Notary Public in and for the Territory of Guam, USA.” and the name
9 of the Notary as set forth in the application shall be used in addition
10 to but not in lieu of the seal described in subsection (a).”

11 **Section 7.** A new Section 33556 is added to Title 5 Guam Code
12 Annotated to read:

13 “Section 33556. Copying Fees. Notwithstanding Section
14 10203 of Article 2, Chapter 10 of this Title, or any other provision of
15 law, the Attorney General may charge a copying fee not to exceed
16 Two Dollars (\$2.00) for the first page of any requested document
17 under this Chapter, and not to exceed One Dollar (\$1.00) for each
18 additional page. All fees shall be deposited into the Fund.

19 **Section 8.** A new Subsection (b) is added to Section 33601
20 Title 5 GCA to read:

1 “(b) The Attorney General may charge a Fifteen Dollar
2 (\$15.00) non-refundable fee for a certificate of authority or a n
3 apostle. Such fees shall be deposited into the Fund.”