
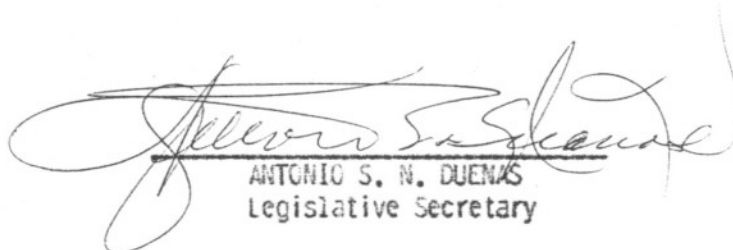


CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 49, "An Act to repeal Title V of part III of the Code of Civil procedure of Guam, and to Enact a new Title V of part III of the Code of Civil procedure of Guam, property for public use," was on the 9th day of February, 1965, duly and regularly passed.

  
CARLOS P. TAITANO  
Speaker

ATTESTED:

  
ANTONIO S. N. DUENAS  
Legislative Secretary

This Act was received by the Governor this 17th  
day of February, 1965 at 9:08 o'clock a. M.

/s/ Rudolph G. Sablan  
RUDOLPH G. SABLAN  
Acting Secretary of Guam

APPROVED:

/s/ Manuel F.E. Guerrero  
MANUEL F. L. GUERRERO  
Governor of Guam

DATED: MAR 9 1965

3:30 p.m.

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EIGHTH GUAM LEGISLATURE  
1965 (FIRST) Regular Session

Bill No. 49

Introduced by: Committee on Rules  
by request of the Governor  
in accordance with Section  
6 (b) of the Organic Act  
of Guam.

AN ACT TO REPEAL TITLE V OF PART III OF THE  
CODE OF CIVIL PROCEDURE OF GUAM, AND TO ENACT  
A NEW TITLE V OF PART III OF THE CODE OF CIVIL  
PROCEDURE OF GUAM, RELATIVE TO THE TAKING OF  
PRIVATE PROPERTY FOR PUBLIC USE.

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

2 Section 1. Title V of Part III of the Code of Civil Proce-  
3 dure of Guam is hereby repealed in its entirety.

4 Section 2. A new Title V of Part III of the Code of Civil  
5 Procedure of Guam is hereby enacted to read as follows:

6 "EMINENT DOMAIN

7 Section 1237. Eminent Domain, Defined:

8 Eminent Domain is the right or power of the government  
9 to take private property for public use, the right of  
10 the government or department or agency thereof, or  
11 public corporation to whom the power is delegated by  
12 law to condemn private property for public use and  
13 to appropriate the ownership and possession thereof  
14 for such use upon paying the owner due compensation  
15 therefor.

16 Section 1238. Public Use, Defined: Public use  
17 means any use of purpose inuring to the benefit of  
18 the public generally or any substantial segment there-  
19 of. When the Guam Legislature declares a use to be  
20 public, such use shall be presumed to be an autho-  
21 rized public use, but the contrary may be proved.

1 Section 1239.

2 (a) The power of Eminent Domain may  
3 be exercised by the Government of Guam upon  
4 authorization and appropriation by the Guam  
5 Legislature of funds necessary for payment  
6 of just compensation. Such power shall be  
7 exercised by the Governor of Guam. If the  
8 Legislature enacts and the Governor approves  
9 an appropriation of funds for a specified  
10 public use, such appropriation shall be deemed  
11 to include the authorization for condemnation  
12 of private property for such use.

13 (b) The power of Eminent Domain may  
14 also be exercised by the Government of Guam  
15 upon authorization and appropriation of funds  
16 by the Congress of the United States for public  
17 use within the territory of Guam. An appro-  
18 priation by the Congress of the United States  
19 for a specific public use shall be deemed to  
20 authorize the acquisition by condemnation or  
21 otherwise of private property for such use.

22 Section 1240. Jurisdiction: Procedure. The  
23 District Court of Guam shall have jurisdiction over  
24 all actions for the condemnation of private property  
25 for public use by the Government of Guam. The proce-  
26 dure in such actions will be governed by the appro-  
27 priate provisions of the Federal Rules of Civil  
28 Procedure and the Rules of the District Court of  
29 Guam.

1 Section 1241. Eminent Domain: lands, easements,  
2 or rights of way for public use; taking of possession  
3 and title in advance of final judgment; authority;  
4 procedure.

5 In any proceeding in any court of the Territory  
6 of Guam which has been or may be instituted by and  
7 in the name of and under the authority of the Govern-  
8 ment of Guam for the acquisition of any land, or  
9 easement, or right of way in land for the public use,  
10 the petitioner may file in the cause, with the petition  
11 or at any time before judgment, a declaration of taking  
12 signed by the authority empowered by law to acquire  
13 the lands described in the petition, declaring that  
14 said lands are thereby taken for the use of the Govern-  
15 ment of Guam. Said declaration of taking shall contain  
16 or have annexed thereto--

17 (1) A statement of the authority under  
18 which and the public use for which said lands  
19 are taken

20 (2) A description of the lands taken  
21 sufficient for the identification thereof

22 (3) A statement of the estate or  
23 interest in said lands taken for such public  
24 use

25 (4) A plan showing the lands taken

26 (5) A statement of the sum of money  
27 estimated by said acquiring authority to be  
28 just compensation for the land taken.

29 Upon the filing said declaration of taking and of  
30 the deposit in the court, to the use of the persons

1 entitled thereto, of the amount of the estimated  
2 compensation stated in said declaration, title to  
3 the said lands in fee simple absolute, or such estate  
4 or interest therein as is specified in said declaration,  
5 shall vest in the Government of Guam, and said lands  
6 shall be deemed to be condemned and taken for the use  
7 of the Government of Guam, and the right to just  
8 compensation for the same shall vest in the persons  
9 entitled thereto; and said compensation shall be  
10 ascertained and awarded in said proceeding and  
11 established by judgment therein, and the said judg-  
12 ment shall include, as part of the just compensation  
13 awarded, interest at the rate of 6 per centum per  
14 annum on the amount finally awarded as the value of the  
15 property as of the date of taking, from said date to  
16 the date of payment; but interest shall not be allowed  
17 on so much thereof as shall have been paid into the  
18 court. No sum so paid into the court shall be charged  
19 with commissions or poundage.

20 Upon the application of the parties in interest,  
21 the court may order that the money deposited in the  
22 court, or any part thereof, be paid forthwith for or  
23 on account of the just compensation to be awarded in  
24 said proceeding. If the compensation finally awarded  
25 in respect of said lands, or any parcel thereof, shall  
26 exceed the amount of the money so received by any  
27 person entitled, the court shall enter judgment  
28 against the Government of Guam for the amount of  
29 the deficiency.

1                    ? Upon the filing of a declaration of taking, the  
2 court shall have the power to fix the time within  
3 which and the terms upon which the parties in posses-  
4 sion shall be required to surrender possession to  
5 the petitioner. The court shall have power to make  
6 such orders in respect of encumbrances, liens, rents,  
7 taxes, assessments, insurance, and other charges, if  
8 any, as shall be just and equitable.

9                    Section 1242. Same; taking in advance of final  
10 judgment; appeal or giving bond as preventing or  
11 delaying vesting of title.

12                    No appeal in any cause under this Title nor any  
13 bond or undertaking given therein shall operate to  
14 prevent or delay the vesting of title to such lands  
15 in the Government of Guam.

16                    Section 1243. Same; taking in advance of final  
17 judgment; obligation of the Government of Guam to pay  
18 ultimate award when fixed.

19                    No action irrevocably committing the Government  
20 of Guam to the payment of the ultimate award shall  
21 be taken unless the Governor of Guam shall be of the  
22 opinion that the ultimate award probably will be  
23 within any limits prescribed by the Guam Legislature  
24 or the Congress of the United States on the price to  
25 be paid.

26                    Section 1244. Same; taking in advance of final  
27 judgment; right as additional to existing rights,  
28 powers, and authority.

29                    The right to take possession and title in advance  
30 of final judgment in condemnation proceedings as  
31 provided in this title shall be in addition to any  
32 right, power, or authority conferred by the laws of



1 the Government of Guam and shall not be construed as  
2 abrogating, limiting, or modifying any such right,  
3 power, or authority.

4 Section 1245. When the taking of private prop-  
5 erty for public use in the territory of Guam has been  
6 authorized either by the Guam Legislature or the  
7 Congress of the United States, the Government of  
8 Guam and its employees, agents, and contractors  
9 shall have the right to enter upon any private  
10 property which is or may be involved in the public  
11 use concerned and to make such surveys as may be  
12 necessary to determine precisely the requirements  
13 for the public use involved.

14 If in the course of survey authorized by this  
15 Section the private property surveyed is damaged  
16 to the detriment of the owner, the owner shall have  
17 and may assert in accordance with law a claim for  
18 compensation for such damage against the Govern-  
19 ment of Guam.