



Office of the Attorney General

Douglas B. Moylan

Attorney General of Guam

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INSTRUCTIONS TO PRIVATE and GOVERNMENT NOTARY APPLICANTS

I. QUALIFICATIONS: Applicants must meet all of the following qualifications:

- A. Be at least eighteen (18) years of age;
- B. Reside on Guam;
- C. Read and write English;
- D. Be a citizen of the United States; and
- E. Pass a written examination.

II. ATTACHMENTS: The following items are attached to these instructions. Items A, B and C must be submitted to our office according to these instructions. Items D, E and F are laws you should know as a notary public. Your knowledge of these laws will be tested if you are required to take the written examination.

- A. Notary Application;
- B. Evidence of Notarial Bond;
- C. Notarial Bond form (for renewing applicants);
- D. Guam's Model Notary Law codified as 5 G.C.A. Chapter 33 (§§33101 - 33701)
- E. Public Law 24-89 enacted on October 7, 1997. This law discontinues the use of the term "territory" and applies to notaries public; and
- F. Public Law 24-130 enacted on February 16, 1998 adding a new §33103.1 to the Model Notary Law.
- G. Written Notary Exam Schedule

III. **INSTRUCTIONS:** Attach and submit the following documents to the Office of the Attorney General with your completed notary application. ***Your signature on the declaration of application must be notarized.*** This applies to both new and renewal applicants:

- A. **ORIGINAL POLICE CLEARANCE:** The police clearance must be issued by the Guam Police Department within the last thirty (30) days of the date you submit your Notary Application to our office.
- B. **PRIVATE NOTARIES: APPLICATION FEE of \$50.** This fee is non-refundable and non-transferable and applies to both new and renewal applicants. The fee must be paid to the Treasurer of Guam prior to submitting your notary application. Proof of payment in the form of the original receipt issued by the Treasurer of Guam must be attached to and submitted with your notary application. The Office of the Attorney General accepts notary applications only between 8 a.m. and 12 p.m. Monday through Friday.
- C. **GOVERNMENT NOTARIES: WRITTEN DECLARATION.** A written declaration addressed to the Attorney General and signed by the applicant's department or agency head shall be submitted along with the notary application. The declaration must state that the commission applied for is in the public's interest. The declaration must be submitted for both new and renewal applicants.
- D. **EVIDENCE OF NOTARIAL BOND or ORIGINAL NOTARIAL BOND:**
 - 1. **NEW APPLICANTS:** All new applicants must provide our office with an original form of Evidence of Notarial Bond issued and signed by both the applicant and authorized (name printed below signature) representative of the Surety (insurance) company.
 - 2. **RENEWALS:** Renewal applicants must submit an original notarial bond form issued and signed by both the applicant and authorized representative of the Surety (insurance) company.

IV. **PROCESSING:** All completed applications received by the Office of the Attorney General on or before the end of the month will be processed and scheduled for the written notary examination for the following month. Without exception, an application which does not meet all the requirements stated in these instructions is considered incomplete and will be returned without processing.

V. **RENEWALS:**

- A. **WHEN TO SUBMIT:** All renewal applicants must submit their notary application no earlier than thirty (30) days prior to the expiration of their commission. If an application is submitted after the commission has already expired, the applicant must then re-take the written notary examination.
- B. **JOURNAL INSPECTION:** The journals of all notaries who are renewing applicants will be inspected for compliance in the notary's presence as

provided for by 5 G.C.A. §33404. Please bring your journal with you when you are submitting your renewal application. If for any reason our office cannot inspect your journal at that time, we will give you an appointment for a later date.

NOTE: In accordance with 5 GCA §33404(e) and §33554(2), notaries are required to surrender their journal or journals to the Office of the Attorney General within thirty (30) days of the expiration of a commission.

VI. WRITTEN NOTARY EXAMINATION: Exam schedule is attached, please review schedule for exam dates and ensure your presence on the exam date.

- A. Applicants are given two (2) consecutive chances to pass the written notary examination. **Without exception**, if you fail the examination two (2) consecutive times, your file will be closed and you will have to submit a new application along with the necessary attachments, including a receipt from the Treasurer of Guam proving payment of another application fee.
- B. If you do not show up for a scheduled examination, you will be given an automatic failure. If you cannot appear for the exam and for any reason which we consider valid, you must call us prior to the scheduled examination, and you must still later prove the validity of your absence. (For example, if you are ill, please provide us with a doctor's excuse.) If you do not call us prior to the scheduled examination, you will be given an automatic failure regardless of the reason for your absence.
- C. You will be given forty-five (45) minutes to complete the examination which consists of twenty-five (25) multiple choice questions. To pass, you must have a passing score of 4 errors or less.
- D. Notices will be sent out notifying applicants on the results of the exam. If you do not receive a notice after 7 days from date of exam, please contact our office.
- E. After you have passed the written notary examination, the Attorney General will complete the bottom portion of the form of Evidence of Notarial Bond. The Evidence of Notarial Bond will then be returned to you for submittal to the Surety (insurance) company for processing of the Original Bond. Please contact our office once you have obtained the original Notarial Bond so that we may schedule a date for your commission.

VII. MISCELLANEOUS: Please review your application before submitting it to our office. You have the responsibility of ensuring that your application is complete, not us. An incomplete application received by our office will be returned to you without processing

NOTARY PUBLIC APPLICATION

OFFICE OF THE ATTORNEY GENERAL

DOUGLAS B. MOYLAN, Attorney General

Suite 2-200E Judicial Center - 120 W. O'Brien Drive, Hagatna, Guam 96910

Telephone: (671) 475-3324 Fax (671) 472-2493

www.guamattorneygeneral.com or law@mail.justice.gov.gu

The information solicited on this form is for the purpose of establishing that the applicant meets the statutory requirements of 5 GCA Chapter 33. Failure to provide the information requested on this form may result in denial of a notary public commission. This application will be a public record with the exception of Box 3 (page 2).

(TYPE OR PRINT CLEARLY)

Legal Name: _____
(Last Name) (First Name) (Middle Name)

Home Address: _____

Mailing Address: _____

Social Security Number: _____ Date of Birth: _____ Age: _____

Sex: _____ Place of Birth: _____ Citizenship: _____ Martial Status: _____

Home Phone: _____ Business Phone: _____ E-mail Address: _____

Employer's Name & Address: _____

Occupation: _____ Supervisor's Name: _____

Are you applying for Private or Government Notary Public? _____

Is this a New application? Yes: _____ No: _____

Is this a Renewal application? Yes: _____ No: _____ Expiration Date: _____

Do you reside in Guam? Yes: _____ No: _____

Can you read English? Yes: _____ No: _____

Can you write English? Yes: _____ No: _____

Have you (since your 18th birthday) been convicted of any crime other than traffic violations?

Yes: _____ No: _____ If Yes, indicate when, where and disposition of case: _____

Have you ever been denied, revoked, suspended, restricted or have you ever resigned a notary public commission or any other professional license in Guam or in any state? Yes: _____ No: _____

If Yes, explain: _____

DECLARATION OF APPLICATION

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

Dated this _____ day of _____, 200_____.

(Signature of Applicant)

_____, Guam
(village notarized in)

Subscribed and sworn to before me this _____ day of _____, 200_____.

by _____
(Applicant's Name)

NOTARY PUBLIC

NOTARIAL BOND

KNOW ALL MEN BY THESE PRESENTS:

THAT I/WE _____, as principal, and _____, as surety, are held and firmly bound unto all parties who may be injured by any official misconduct or negligence of said _____, as Notary Public in and for Guam without limit on the part of said principal, and in the total sum of One Thousand Dollars (\$1000), lawful money of the United States, on the part of said surety, to be paid to the said parties, or their heirs, administrators, successors and assigns, for which payment, well and truly to be made, we the said principal and surety bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the above bound principal, _____, has been duly appointed by the Attorney General of Guam as a Notary Public in and for Guam for the term of four (4) years from the date of his/her commission.

WHEREAS, the above bound surety, _____, is required to maintain this notarial bond for the entire four (4) year term of the principal's notarial commission.

NOW, THEREFORE, the conditions of the above obligation are such that if the said principal, _____, shall well, truly and faithfully perform all official duties now required of him/her by law, and all such additional duties as may be imposed on him/her by any law of Guam, then the above obligation is void, otherwise to remain in full force and effect.

IN WITNESS WHEREOF, the said principal and surety have affixed their hands and have caused these presents to be executed in Guam this _____ day of _____, 200 _____.

PRINCIPAL

SURETY

(For Office Use Only)

THIS BOND approved as to form and sufficiency of surety this _____ day of _____, 2003.

DOUGLAS B. MOYLAN
Attorney General
Office of the Attorney General



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Douglas B. Moylan

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EVIDENCE OF NOTARIAL BOND

I _____ have submitted an application to _____ (Surety) for my Notarial Bond. The Notarial Bond will be issued as soon as the information below has been completed by the Attorney General of Guam and returned to the Surety.

Dated: _____.

APPLICATION RECEIVED BY:

APPLICANT'S SIGNATURE

SURETY (Print Name & Signature)

TO: _____ (SURETY)

This is to inform you that _____ passed the Notary Written Examination on _____. Please process and issue the Notarial Bond for this person.

Dated: _____, 2003.

DOUGLAS B. MOYLAN
Attorney General

Attachment "B"

Douglas B. Moylan
Attorney General



J. Basil O'Mallan III
Deputy
Civil Division

Office of the Attorney General

NOTARY EXAMINATION SCHEDULE FOR CALENDAR YEAR December 2003 through December 2004

DECEMBER	Monday	December 15, 2003	8:30 a.m.
JANUARY	Monday	January 05, 2004	9:00 a.m.
FEBRUARY	Monday	February 02, 2004	9:00 a.m.
MARCH	Monday	March 01, 2004	9:00 a.m.
APRIL	Monday	April 05, 2004	9:00 a.m.
MAY	Monday	May 03, 2004	9:00 a.m.
JUNE	Monday	June 07, 2004	9:00 a.m.
JULY	Tuesday	July 06, 2004	9:00 a.m.
AUGUST	Monday	August 02, 2004	9:00 a.m.
SEPTEMBER	Monday	September 06, 2004	9:00 a.m.
OCTOBER	Monday	October 04, 2004	9:00 a.m.
NOVEMBER	Monday	November 01, 2004	9:00 a.m.
DECEMBER	Monday	December 06, 2004	9:00 a.m.

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GUAM's MODEL NOTARY ACT

Codified as

5 Guam Code Annotate, Chapter 33, §§ 33101-33701
and

Public Laws 24-89 and 24-130

CHAPTER 33

Notaries Public

Article 1

Implementation

- §33101. Short Title.
- §33102. Purposes.
- §33103. Prospective effect.
- §33103.1. Non application to Court Reports and Other Court Officers.
- §33104. Definitions.
- §33105. Effective date.
- §33106. Notary Public Revolving Fund.

Article 2

Commissioning

- §33201. Commissioning.
- §33202. Jurisdiction and term.
- §33203. Bond.
- §33204. Recommissioning.
- §33210. Application.
- §33211. Statement of Personal Qualifications.
- §33212. Examination.
- §33213. Notarized declaration.
- §33214. Fees.
- §33215. Confidentiality.
- §33220. Government employees.

Article 3

Powers and Limitations

- §33301. Powers.
- §33302. Disqualifications.
- §33303. Impartiality.
- §33304. False certificate.
- §33305. Testimonials.
- §33306. Unauthorized practice of law.
- §33310. Fees.
- §33311. Notice of fees.

Article 4

Journal and Seal

- §33401. Journal.
- §33402. Entries in Journal.
- §33403. Signature in journal.
- §33404. Inspection, copying and disposal of journal.
- §33410. Official signature.
- §33411. Official seal.
- §33412. Seal impression.
- §33413. Obtaining a seal.

Article 5

Certificates

- §33450. General acknowledgment.
- §33452. Jurat.
- §33453. Certified copy.

Article 6

Liability and Remedies

- §33501. Liability of notary, surety and employer.
- §33502. Proximate cause.
- §33510. Revocation.
- §33511. Other remedies.
- §33512. Criminal prosecution.
- §33513. Additional remedies not prevented.
- §33520. Impersonation.
- §33521. Wrongful possession.
- §33522. Improper influence.

Article 7

Miscellaneous

- §33550. Change of address.
- §33551. Change of name.
- §33552. Lost journal or seal.
- §33553. Resignation.
- §33554. Disposition of seal and journal.
- §33555. Death.
- §33556. Copying Fees.

Article 8

Authentication

- §33601. Evidence of authenticity of notarial act.
- §33602. Certificate of Authority.
- §33603. Apostille.

Article 9
Officers in the Armed Forces
Authorized to Act as Notaries

§33701. Officers may perform notarial acts.

Article 1

Implementation

§33101. Short Title. This Chapter shall be known and may be cited as the *Model Notary Law*.

SOURCE: This entire Chapter was enacted by P.L. 21-106:2.

COMMENT: This Chapter is basically the *Model Notary Law* as promulgated by the National Notaries Association. The Guam Legislature has made various amendments to conform to local administrative needs and organization.

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

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

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

§33103.1. Non-application to Court Reporters and Other Court Officers. None of the provisions of this Chapter applies to any certification by official court

reporters of transcripts of trials or other Court proceedings, or to the authentication of Court documents by other ministerial officers of the Court pursuant to statute or Court rule.

SOURCE: Added by P.L. 24-130:1.

§33104. Definitions. As used in this Chapter:

(1) *Acknowledgment* means a notarial act in which a notary certifies that a signer, whose identity is proven on the basis of satisfactory evidence, 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) *A crime involving moral turpitude* includes any felony committed in Guam or any crime committed outside Guam that would be a felony under Guam law, any crime involving personal injury, and any crime involving a breach of official duty if done willfully.

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

(6) *Jurat* means a notarial act in which a notary certifies that a signer, whose identity is 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.

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

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

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

(10) *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.

(11) *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.

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

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

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

SOURCE: Amended by P.L. 23-81:2.

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

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

SOURCE: Added by P.L. 23-81:3.

Article 2

Commissioning

Part 1 - Commission, Qualifications, Term

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

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

- (1) Be at least eighteen (18) years of age;
- (2) Reside on Guam;
- (3) Read and write English;
- (4) Be a citizen of the United States;
- (5) Pass a written examination as required under §33212 of this Chapter;
- (6) Submit an application containing no significant misstatement or omission of fact.

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

- (1) The applicant's conviction of a crime involving dishonesty or moral turpitude;
- (2) Revocation, suspension, or restriction of a notarial commission or professional license issued to the applicant by this territory or any other state; or
- (3) The applicant's official misconduct as defined

in §33104 of this Chapter whether or not disciplinary action resulted.

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

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

SOURCE: Amended by P.L. 23-81:4.

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

Part 2. - Application

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

- (1) A statement of the applicant's personal qualifications;

(2) When required, an examination written by the applicant;

(3) A notarized declaration by the applicant;

(4) An application fee; and

(5) Evidence of the bond required by 33203 of this Chapter.

§33211. Statement of Personal Qualifications. The application must show:

(1) The applicant's age;

(2) The applicant's residence and business address in Guam;

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

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

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

SOURCE: Amended by P.L. 23-81:5.

§33212. Examination. (a) Every first-time applicant shall be required to pass a written examination that tests the applicant's knowledge of notarial laws and procedures and is based on materials distributed by the Attorney General with the application forms.

(b) The Attorney General shall give public notice of

the examination requirement by publication in a newspaper of general circulation at least ninety (90) days in advance of the time at which examinations will first be given.

(c) Persons authorized to administer oaths by any other law of Guam, and attorneys licensed to practice in Guam, shall not be required to take an examination.

§33213. Notarized declaration. Every applicant for a notarial commission shall sign the following declaration in the presence of a notary:

"Declaration of Applicant

I, _____ (name of applicant), solemnly swear (or affirm) under penalty of perjury that the personal information in this application is true, complete, and correct; that I have read carefully the materials describing the duties of a notary in Guam; and that I will perform, to the best of my ability all notarial acts in accordance with law.

_____ (signature of applicant)"

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

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

SOURCE: Amended by P.L. 23-81:6.

§33215. Confidentiality. Disciplinary information in an applicant's or notary's Statement of Personal Qualifications under paragraphs (4) and (5) of §33211 of this Chapter must be used by the Attorney General and

designated territorial employees for the sole purpose of performing official duties under this Chapter and may not be disclosed to any person other than:

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

Part 3 - Government employees

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

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

(c) Except as provided in this section, an applicant for a notarial commission under this section must meet the requirements in Sections 33210 through 33215 of this

Chapter. The application shall include a written declaration signed by the applicant's department or agency head stating that the commissioning is in the public interest. The fee imposed in Section 33214 of this Chapter is waived for employees of the government of Guam.

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

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

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

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

SOURCE: Repealed/reenacted by P.L. 21-136:31. Amended by P.L. 23-81:7.

NOTE: The original section had subsections through "(g)". The amendment contained only subsection (a). However, since the Legislature "repealed and reenacted" the "section", not just one subsection thereof, the Compiler has retained only subsection (a) as representing the exact section as reenacted by the Legislature.

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 notarial acts 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 (except for attorneys), advantage, right, title, interest, cash, property, or other consideration exceeding in value the fees specified in §33310 of this Chapter; or
- (3) Is related to the person whose signature is to be notarized as a spouse, sibling, or lineal ascendant or descendant as defined in 15 GCA §809 of the Estates & Probate Code of Guam.

SOURCE: Amended by P.L. 23-81:8.

§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 of this Chapter.

§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.

§33305. 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 understanding a document or transaction requiring a notarial act.

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

(c) A notary shall not make representations to have powers, qualifications, rights or privileges that the office of notary does not have, including the providing of legal advice unless the notary is also a licensed attorney.

(d) A non-attorney notary who advertises notarial services in any language shall include in the advertisement, notice, or sign the following statement, prominently displayed in the same language:

"I am not an attorney and have no authority to give advice on any legal matters".

Part 2 - Fees

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

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

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

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

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

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

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

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

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

SOURCE: Amended by P.L. 23-81:9.

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

Article 4

Journal and Seal

Part 1 - Journal

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

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

- (1) The date and time of day of the notarial act;
- (2) The type of notarial act;
- (3) A description of the document or proceeding;
- (4) The signature and printed name and address of each person for whom a notarial act is performed;
- (5) The evidence of identity of each person for whom a notarial act is performed, in the form of a description of the identification document, its issuing agency, its serial or identification number, and the date of its issuance if expired, or a statement by the notary that he or she has personal knowledge of identity of the person;
- (6) The fee, if any, charged for the notarial act; and
- (7) The address where the notarization was performed if not the notary's business address.

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

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

SOURCE: Amended by P.L. 23-81:10.

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

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

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

§33404. Inspection, copying and disposal of journal.

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

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

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

(d) The journal must be kept in the exclusive custody of the notary, and may not be used by any other notary or

surrendered to an employer upon termination of employment.

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

SOURCE: Amended by P.L. 23-81:11.

Part 2 - Signature and Seal

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

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

(b) Upon resignation, revocation, or expiration of a notarial commission, or death of the notary, any seal having the expiration date of the commission on it must be destroyed in accordance with Article 7 of this Chapter. A new seal must be obtained, under §33413 of this Chapter, for any new commission. The notary need not destroy the embossing seal, if any, nor obtain a new embossing seal, if there is not time lapse between the expiration of one commission and the granting of another commission.

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

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

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

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

(4) A rectangular border surrounding the

required words.

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

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

SOURCE: Amended by P.L. 23-81:12.

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

"Application for Notary Seal

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

(signature of person requesting the seal)"

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

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

Article 5

Certificates

§33450. General acknowledgment. A notary shall use a certificate in substantially the following form in notarizing the signature or mark of persons acknowledging for themselves or as partners, corporate officers, attorneys in fact, or in other representatives capacities, or may use such other forms of certificates as are otherwise authorized by statute:

"Territory of Guam.

On this ____ day of _____, _____ before me, the undersigned notary, personally appeared, _____, the person(s) whose name(s) (is) (are) signed on the preceding or attached document, and acknowledged to me that (he) (she) (they) signed it voluntarily for its stated purpose(.)

(as partner for _____, a partnership.)

(as _____ for _____, a corporation.)

(as attorney in fact for _____, the principal.)

(as _____ for _____ (a) (the) _____.)

(by mark before ____ and _____, subscribing witnesses.)

(official signature and seal of notary)"

SOURCE: First paragraph amended by P.L. 21-136:32.

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

"Territory of Guam.

Subscribed and sworn to before me this
_____ day of _____, 19____ by
_____.

(official signature and seal of notary)"

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

"Territory of Guam.

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

(official signature and 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 on other claimants. Regardless of the number of claimants, a surety's total liability may not exceed the penalty of the bond.

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

(d) An employer of a notary is liable for all damages recovered from the notary as a result of official misconduct that was coerced by threat of the employer, if the threat, such as of demotion or dismissal, was made in reference to the particular notarization, or implied by the employer's previous action in at least one (1) similar transaction. In addition, the employer is liable to the notary for damages caused the notary by demotion, dismissal, or other action resulting from the notary's refusal to commit official misconduct.

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

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

Part 2 - Revocation

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

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

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

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

§33512. Criminal prosecution. A notary who knowingly and repeatedly performs or fails to perform any act prohibited or mandated respectively by this Chapter is guilty of a third degree felony. A notary who knowingly performs a notarization for a person who does not appear before the notary or at the notary's office is guilty of a third degree felony.

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

Part 3 - Willful Crimes

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

SOURCE: Amended by P.L. 23-81:13.

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

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

Article 7

Miscellaneous

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

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

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

(1) The notice described in subsection (a) of this section has been delivered;

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

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

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

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

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

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

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

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

§33555. Death. If a notary dies during the term of commission, the notary's heirs or legal representative, as soon as reasonably practical after death, shall deliver to the Attorney General by certified mail or other means providing a receipt (i) a notice of the date of death, and (ii) the notarial journal and records.

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

SOURCE: Added by P.L. 23-81:14.

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.

(3) 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.

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

SOURCE: Amended by P.L. 23-81:15.

§33602. Certificate of Authority. A certificate of authority evidencing the authenticity of the official notarial seal and signature of a notary of Guam 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:

"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

5. at _____ 6. the _____

7. by _____

8. No. _____

9. Seal/Stamp

10. Signature

"

SOURCE: Amended by P.L. 23-81:16.

Article 9

Officers in the Armed Forces

Authorized to Act as Notaries

§33701. Officers may perform notarial acts. Any commissioned officer of the Armed Forces of the United States, while on active duty, who is authorized to administer oaths by the Uniform Code of Military Justice, may administer oaths and affirmations, take depositions, affidavits and acknowledgements of deeds, grants, transfers and other instruments of writing, and powers of attorney, of any person who for the time being is on active duty with the Armed Forces of the United States, in the same manner as a Notary Public.

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

NOTE: Section 2 of P.L. 21-106 stated:

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

Citation/Title

CH ST T.15, Sec. 809, Lineal Consanguinity Defined.

*11387 T.15 G.C.A. § 809

GUAM CODE ANNOTATED
TITLE 15. ESTATES & PROBATE.
DIVISION 2. SUCCESSION & SIMULTANEOUS DEATH.
CHAPTER 8. SUCCESSION.
SUBCHAPTER A.GENERAL PROVISIONS

Current through P.L. 26-72 (2001)

§ 809. Lineal Consanguinity Defined.

Lineal consanguinity, or the direct line of consanguinity, is the relationship between persons one of whom is a descendant of the other. The direct line of consanguinity is divided into a direct line descending, which connects a person with those who descend from such person, and a direct line ascending, which connects a person with those from whom such person descends. In the direct line there are as many degrees as there are generations. Thus a child is, with regard to such child's parents, in the first degree; a grandchild, with regard to such grandchild's grandparent, in the second degree; and vice-versa as to the parent and grandparent with regard to their respective children and grandchildren.

RCE: Probate Code of Guam (1970), § 252.

<General Materials (GM) - References, Annotations, or Tables>

~~~~~  
PUBLIC LAW NO. 24-89

Bill No. 320 (COR)  
Date Became Law: October 7, 1997  
Governor's Action: Approved

Introduced by:

Mark Forbes  
A. C. Lamorena, V  
L. F. Kasperbauer  
T. C. Ada  
F. B. Aguon, Jr.  
E. Barrett-Anderson  
A. C. Blaz  
J. M.S. Brown  
Felix P. Camacho  
Francisco P. Camacho  
M. C. Charfauros  
E. J. Cruz

W. B.S.M. Flores  
C. A. Leon Guerrero  
L. Leon Guerrero  
V. C. Pangelinan  
J. C. Salas  
A. L.G. Santos  
F. E. Santos  
A. R. Unpingco  
J. Won Pat-Borja

AN ACT TO ADD A NEW §420 TO TITLE 1 OF THE GUAM  
CODE ANNOTATED, RELATIVE TO DISCONTINUING THE  
USE OF THE TERM "TERRITORY OF GUAM" IN OFFICIAL  
GOVERNMENT ACTS, TITLES AND DOCUMENTS, AND TO  
DISCONTINUE THE USE OF THE TERM "TERRITORIAL" IN  
GOVERNMENT TITLES.

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

**Section 1.** A new §420 is hereby added to Title 1 of the Guam Code Annotated to read as follows:

**"Section 420. Affirmation of Self-Respect and Prohibition of Use of the Term "Territory" in All Official Uses Within the Government of Guam.** In the interests of promoting self-respect and in recognition of the necessarily pejorative, diminishing and colonial aspects of the term 'territory' within the context of American law, the term 'territory of Guam' or its derivatives, such as 'territorial,' shall not be used in direct titular association with the Island, people, or government of Guam or for the purposes of direct self-description, in any government document or otherwise as part of any government title. This Section is intended to prohibit, among other things, official government use of the term 'territory of Guam' in any statute, resolution, official government act or document. In replacement, the designation 'Guam' shall be used. Further, the term 'territorial,' as is used in the titles of various government agencies, councils, boards and instrumentalities is prohibited, to be replaced with the term 'Guam.' This Section is not intended to ban the use of the terms 'territory' or 'unincorporated territory' in documents or publications describing Guam or the political status of Guam, but rather to discontinue the self-perpetuation of this unworthy status in official titles associated with Guam. In such cases where existing statutes contain the term 'territory of Guam,' on the effective date of this Act, all such statutory references, notwithstanding any other provision of law, are amended to replace the term 'territory of Guam' with the term 'Guam,' which shall be understood to have the same meaning and effect with respect to construction and effect of the statutes so amended. On the effective date of this Act, all government instrumentalities, agencies, councils or boards containing the term 'territorial' in their titles shall be amending notwithstanding any other provision of law in such manner as to remove the term 'territorial' from the title and replace such term with the term 'Guam.'

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PUBLIC LAW NO. 24-130

Bill No. 424 (COR)

Date Became Law: February 16, 1998

Governor's Action: Approved

Introduced by:

E. Barrett-Anderson

T. C. Ada

F. B. Aguon, Jr.

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F. E. Santos

A. R. Unpingco

J. Won Pat-Borja

AN ACT TO ADD A NEW §33103.1 TO ARTICLE 1, CHAPTER 33 OF TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE MODEL NOTARY LAW'S NON-APPLICATION TO COURT REPORTERS AND OTHER MINISTERIAL OFFICERS OF THE COURTS.

Section 1 ... Added §33103.1 to 5 GCA.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new §33103.1 is hereby added to Article 1, Chapter 33 of Title 5 of the Guam Code Annotated to read as follows:

"Section 33103.1. Non-application to Court Reporters and Other Court Officers. None of the provisions of this Chapter applies to any

certification by official court reporters of transcripts of trials or other Court proceedings, or to the authentication of Court documents by other ministerial officers of the Court pursuant to statute or Court rule."

~~~~~

**PUBLIC LAW NO. 24-131**

Bill No. 208 (COR)

Date Became Law: February 16, 1998

Governor's Action: Approved

Introduced by:

F. B. Aguon, Jr.

T. C. Ada

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C. A. Leon Guerrero

L. Leon Guerrero

V. C. Pangelinan

J. C. Salas

A. L.G. Santos

F. E. Santos

A. R. Unpingco

J. Won Pat-Borja

AN ACT RELATIVE TO FURTHER ASSURING THE SAFETY AND PROTECTION OF OUR ISLAND'S SCHOOL CHILDREN AS THEY TRAVEL TO AND FROM SCHOOL BY REQUIRING THAT PROTECTIVE GUARDRAILS BE CONSTRUCTED FOR BUSHELTERS LOCATED ADJACENT TO MAJOR ROADWAYS AND HIGHWAYS.