Section 5. Repealer. §§87138, §§87139, §§87140 and §§87141 of Chapter 87, Division 8, Part 3 of Title 5 of the Guam Code Annotated, are hereby repealed.

Section 6. A new §5117 is hereby added to Article 2 of Chapter 5 of Division 1 of Title 5, Guam Code Annotated, to read:

"§5117. Procurement shall be delegated to the Guam Preservation Trust. Notwithstanding any other provision of Guam Procurement Law, the authority to procure supplies and services for the Guam Preservation Trust shall be delegated by the Chief Procurement Officer to the Board of Directors of the Guam Preservation Trust."

Section 7. Severability. If any provision of this Law or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall not affect other provisions or applications of this Law which can be given effect without the invalid provisions or application, and to this end the provisions of this Law are severable.
The Honorable Vicente C. Pangelinan  
Speaker  
I Mina’Bente Siete Na Liheslaturan Guåhan  
Twenty-Seventh Guam Legislature  
155 Hesler Street  
Hagåtña, Guam 96910  

Dear Speaker Pangelinan:  

Transmitted herewith is Bill No. 177 (LS), “AN ACT TO ADVANCE HISTORIC PRESERVATION PROGRAMS IN GUAM BY REPEALING AND REENACTING ARTICLE 6 OF CHAPTER 76 OF DIVISION 2 OF TITLE 21, REPEALING §§ 87138 THROUGH 87141, AND ADDING A NEW §5117 TO TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE GUAM PRESERVATION TRUST,” which I signed into law on May 6, 2004 as Public Law 27-89.  

Sinseru yan Magåhet,  

FELIX P. CAMACHO  
I Maga’låhen Guåhan  
Governor of Guam  

Attachment: copy attached of signed bill  

cc: The Honorable Tina Rose Muña-Barnes  
Senator and Legislative Secretary
April 27, 2004

The Honorable Felix P. Camacho
I Maga'lahen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910

Dear Maga'lahi Camacho:

Transmitted herewith are Bill Nos. 178(LS), 193(COR), 256(LS), 261(LS) and 277(COR), and Substitute Bill Nos. 17(LS), 115(COR), 119(COR), 146(LS), 172(LS), 175(LS), 177(LS), 183(COR), 220(COR), 230(LS), 231(LS), 249(COR), 255(LS) and 258(LS) which were passed by I Mina' Bente Siete Na Liheslaturan Guåhan on April 23, 2004.

Sincerely,

[Signature]
TINA ROSE MUNA BARNES
Legislative Secretary

Enclosures (19)
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA’LAHEN GUÅHAN

This is to certify that Substitute Bill No. 177 (LS), "AN ACT TO ADVANCE HISTORIC PRESERVATION PROGRAMS IN GUAM BY REPEALING AND REENACTING ARTICLE 6 OF CHAPTER 76 OF DIVISION 2 OF TITLE 21, REPEALING §§ 87138 THROUGH 87141, AND ADDING A NEW §5117 TO TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE GUAM PRESERVATION TRUST," was on the 23rd day of April, 2004, duly and regularly passed.

Attested:

Tina Rose Muña Barnes
Senator and Legislative Secretary

This Act was received by I Maga’lahen Guåhan this 27 day of April, 2004, at 11:45 o'clock A.M.

Assistant Staff Officer
Maga’lahi’s Office

APPROVED:

FELIX P. CAMACHO
I Maga’lahen Guåhan

Date: May 6, 2004

Public Law No. 27-89
Bill No. 177 (LS)
As substituted by the Committee on Community, Culture, Recreation and Public Broadcasting, and further substituted by the Author, and amended on the Floor.

Introduced by:

T. R. Muña Barnes
F. R. Cunliffe
R. J. Respicio
F. B. Aguon, Jr.
J. M.S. Brown
C. Fernandez
Mark Forbes
L. F. Kasperbauer
R. Klitzkie
L. A. Leon Guerrero
J. A. Lujan
v. c. pangelinan
J. M. Quinata
Toni Sanford
Ray Tenorio

AN ACT TO ADVANCE HISTORIC PRESERVATION PROGRAMS IN GUAM BY REPEALING AND REENACTING ARTICLE 6 OF CHAPTER 76 OF DIVISION 2 OF TITLE 21, REPEALING §§ 87138 THROUGH 87141, AND ADDING A NEW §5117 TO TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE GUAM PRESERVATION TRUST.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. I Lihesluran Guåhan finds that the Guam Preservation Trust (the “Trust”) was established as a public non-profit corporation by Public Law 20-151, amended by Public
Law 21-07, and codified into law as Article 6, Chapter 76, Division 2 of Title 21 of the Guam Code Annotated to advance historic preservation programs in Guam. The creation of the Trust was an innovative way to fund and execute local historic preservation projects.

Pursuant to this Law, all building permit fees and fines authorized by §66408 and §76211 of Division 2 of Title 21, GCA, are deposited into the Trust Fund and administered by the Trust Board of Directors. Members of the Guam Historic Preservation Review Board serve on the Board of Directors of the Trust.

I Liheslaturan Guåhan further finds that the enactment of Public Law 25-69, now codified into law as Chapter 87 of Title 5 of the Guam Code Annotated, which is the enabling act of the Department of Chamorro Affairs ("DCA"), included a specific provision, Section 8 of Public Law 25-69, which repealed all of Chapter 76, Historical Objects and Sites, of Division 2 of Title 21, GCA, containing the statute establishing the Historic Resources Division of the Department of Parks and Recreation ("DPR") for the purpose of historic preservation and to administer the State Historic Preservation Grant Program. Article 6 of the repealed Chapter 76 created the Trust.

At the time Public Law 25-69 was passed, it was the intent of I Liheslatura that the Historic Resources Division of DPR and the Trust be consolidated into DCA. It was subsequently determined that DCA, established in Guam law as a public non-profit corporation, could not administer the State Historic Preservation Grant because Federal law
requires an arm of a state or territorial government to be the administering
authority and DCA is not a line agency of the government of Guam.

To remedy this condition, *I Mina' Bente Sinko Na Lihe slaturan Guåhan*,
in Section 13 of Chapter IV (Miscellaneous Provisions) of Public Law 25-72,
repealed Section 8 of Public Law 25-69, effectively restoring Chapter 76 of
21 GCA. However, Section 13 of Chapter IV (Miscellaneous Provisions) of
Public Law 25-72 also repealed Public Law 21-07, which contained
language mandating the fiduciary duty of the Trust and protecting the
Trust Fund from being used for the operations of any line department or
agency.

It is the additional finding of *I Lihe slaturan Guåhan* that the Guam
Code Annotated has yet to be revised to contain the restoration of Chapter
76 of Title 21, GCA, and revision of Chapter 87 of Title 5, GCA, relative to
the Trust.

It is the additional finding of *I Lihe slatura* that through prior
legislative appropriations and authorizations, a substantial portion of the
Trust Fund has been tapped to offset the shortfall to the General Fund and
the operations of the Department of Parks and Recreation, these actions
being contrary to the intent of Public Law 20-151.

It is therefore the intent of *I Lihe slaturan Guåhan* to clarify the statutes
controlling the Trust and to assist in the advancement of its operations
relative to historic preservation by restating its enabling act prior to
amendment by a now-repealed Section of Public Law 25-69; adding
additional requirements relative to prioritization of projects; providing the
Trust with additional safeguards for its programs; and providing authority
to encumber its funds for the purpose of obtaining a line of credit or loan to
advance its programs. By virtue of passage of this Act, I Lihteslaturan
Guåhan intends to authorize the Trust to encumber its funds as collateral
for a loan or line of credit to secure immediate funding for local historic
preservation projects.

It is the additional intent of I Lihteslaturan Guåhan to direct the
Compiler of Laws to codify this Act and revise Chapter 87 of Title 5, GCA,
pursuant to Section 13 of Chapter IV (Miscellaneous Provisions) of Public
Law 25-72, and restore Chapter 76 of Title 21, GCA, pursuant to Section 13
of Chapter 4 of Public Law 25-72, as amended by this Act.

It is the additional intent of I Lihteslaturan Guåhan to require that the
Director of the Department of Administration and the Director of the
Bureau of Budget and Management Research jointly submit a report to I
Lihteslaturan Guåhan on the status of any and all financial transactions made
to and from the Trust Fund, including any funds that may have been
reverted to the General Fund from the Trust Fund.

Section 2. Article 6 of Chapter 76 of Division 2 of Title 21 of the
Guam Code Annotated, is repealed and reenacted to read:

"Article 6

Guam Preservation Trust

§76601. Guam Preservation Trust.

§76602. Guam Preservation Trust Income.

§76603. Limitation to Purposes of the Trust.

§76604. Power of the Trust.

§76605. Exemption from Executive Budget Act.
§76606. Responsibilities of the Trust.

§76607. Line of Credit Authorized.

§76608. Iliheslatura Appropriations.

§76601. Guam Preservation Trust. There is hereby established as a public, non-profit corporation, the Guam Preservation Trust (the 'Trust'). The Trust shall have the following purposes, which are within its powers:

(a) To seek grants and donations;

(b) To acquire title to threatened Guam properties for the preservation of their historical value, whether in fee simple, by leasehold, or by easement, and whether through donation, transfer, dedication, or purchase;

(c) To award grants for the following:

1. Historic property documentation and historic register nomination;

2. Architectural and archeological history and documentation of historic structures and sites;

3. Protection of historic structures and sites through stabilization, rehabilitation, reconstruction, or restoration, including adequate lighting when appropriate on such sites being utilized for non-profit and non-commercial purposes, such as private homes, schools, churches, public buildings and facilities, except that commercial activity is
allowable on such sites pursuant to a signed
covenant between the Guam Preservation
Trust and the registered owners when part of
the proceeds of such commercial activity is
used for the general maintenance of such
sites;

4. Ethnography and oral history of Guam; and

5. Archival and archaeological research and
investigations for locating, recording and
protecting sites of historic or prehistoric
interest and value.

(d) To prepare a Guam Preservation Trust Master Plan
identifying, by order of priority, the buildings, structures and
sites which in the opinion of the Trust are deserving of
preservation and which shall be preserved. The Trust shall hold
a public hearing on the proposed plan and shall transmit the
plan to I Liheslaturan Guåhan sixty (60) days prior to its
implementation; and

(e) To support other activities directly related to
increasing the public appreciation of and benefit from historical
places including public interpretation and presentation.

§76602. Guam Preservation Trust Income. Fees collected
pursuant to §66408 of Division 2 of Title 21 of the Guam Code
Annotated, shall be deposited in the Guam Preservation Trust Fund.
Fines collected under §76211 of Division 2 of Title 21 of the Guam
Code Annotated, shall be deposited into the Guam Preservation Trust Fund. Guam Preservation Trust funds shall be maintained separate and apart from all other government funds. The Department of Administration, as custodian for the fees-and fines collected pursuant to this Section, shall transfer all such funds to the Trust no less than on a quarterly basis. Any and all interest accrued on such funds shall also be transferred to the Trust. The amounts within the Guam Preservation Trust Fund shall be used by the Trust only for the purposes expressed in this Article 6 and shall not be subject to any transfer authority of I Maga'laheen Guåhan.

§76603. Limitation to Purposes of the Trust. Expenditures by the Trust shall be limited to purposes of the Trust and may not be used for any operation of the Department of Parks and Recreation or any other agency, department, bureau, division, office, instrumentality or branch of the government of Guam.

§76604. Power of the Trust. The Trust shall have the following powers in coordination with its purposes:

(a) To sue and be sued in its own name;

(b) To hire its own legal counsel;

(c) To hire or contract for the management of Trust assets and the conduct of Trust business;

(d) To enter into and execute contracts and instruments of every kind and nature, necessary or convenient to the exercise of its powers and functions;

(e) To have all corporate powers provided by law.
§76605. Exemption from Executive Budget Act. The Trust is exempt from the provisions of the Executive Budget Act (P.L. 12-115, as amended).

§76606. Responsibilities of the Trust. The Trust is subject to the following responsibilities:

(a) A fiduciary duty toward the funds and purposes of the Trust;

(b) The preparation of an annual audit report which is to be submitted to I Maga'lahen Guåhan and I Liheslaturan Guåhan within sixty (60) days after the end of each fiscal year; and

(c) Establish guidelines relative to the Abatement of Taxes as provided in Section 21 of Public Law 20-151.

§76607. Line of Credit Authorized. The Guam Preservation Trust Fund may be encumbered as collateral for a loan or line of credit to advance its grant programs pursuant to a Guam Historic Preservation Master Plan as described in §76601(d) of this Article. The Trust is authorized to enter into such agreements necessary for the acquisition of the loan or line of credit, with any lending institution chosen under its procurement regulations and/or policies. Neither the Board of Directors nor the employees of the Trust shall incur any personal liability for any loan agreement lawfully entered into.

§76608. I Liheslatura Appropriations. I Liheslatura may, from time to time, appropriate funds from the General Fund for deposit in
the Guam Preservation Trust Fund. Such funds, when appropriated, shall be paid directly to the Trust."

Section 3. Codification. The Compiler of Laws shall codify this Act and revise Chapter 87 of Title 5, GCA, pursuant to Section 13 of Public Law 25-72; restore Articles 1 through 5 of Chapter 76 of Title 21, GCA, pursuant to Section 13 of Chapter IV (Miscellaneous Provisions) of Public Law 25-72 and Article 6 of Chapter 76 of Title 21, GCA, as repealed and reenacted in this Act; and codify Section 21 of Public Law 20-151.

Section 4. Report to I Liheslatura. Within sixty (60) days of enactment, the Director of the Department of Administration and the Director of the Bureau of Budget and Management Research shall jointly submit a report to the Speaker of I Lihesluran Guåhan and to the Chairpersons of the Legislative committees with oversight over Finance, Budgeting and Parks & Recreation, containing the following information:

(1) A list of all appropriations made from the Guam Preservation Trust Fund, also known as the Guam Historic Preservation Trust Fund, to other government of Guam entities since the enactment of Public Law 20-151 to include amounts released, reserved or encumbered, and expended including the status of any outstanding appropriations; and

(2) A list of all financial transactions relative to any funds which were withheld from the Guam Preservation Trust and were transferred or reverted to the General Fund pursuant to a budget act or any other act of I Lihesluran Guåhan.