

TENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

S. B. NO. \_\_\_\_\_

FIRST REGULAR SESSION, 1996

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A BILL FOR AN ACT

To create a CNMI Contractors License Board; and for other purposes.

BE IT ENACTED BY THE TENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

ARTICLE 1. Administration

1                   Section 1.        Short Title. This Chapter may be cited as the "CNMI Contractors License  
2                   Board Act.:

3                   Section 2.        Office of Commonwealth of the Northern Mariana Islands Contractors License  
4                   Board: Director: Personnel. There is hereby created within the Executive Branch of the Commonwealth  
5                   of the Northern Mariana Islands Government an office to be called the Contractors License Board  
6                   (hereinafter called the "CNMI Contractors License Board") which shall consist of six (6) Board members  
7                   appointed by the Governor and approved by the Senate.

8                   Section 3.        Qualification of Board Members. All members of the Board, except the  
9                   members from Department of Public Works, Commerce and Labor, and the general public, shall be  
10                  contractors who have been actively engaged in the contracting business, for a period of not less than five  
11                  (5) years preceding the date of the appointment and who shall so continue in the contracting business  
12                  during the term of their office.

13                  Section 4.        Membership of Board. One member of the Board shall be a general engineering  
14                  contractor, one member shall be a general building contractor, one member shall be a specialty contractor,  
15                  one member shall be a representative from the Department of Public Works, Building Code Division, and  
16                  one member shall be a representative from the Department of Commerce and Labor, Labor Division, and

1       one member shall be from the general public. Each member of the Board shall have been a United States  
2       national or citizen and domiciliary of the Commonwealth of the Northern Mariana Islands for at least five  
3       years preceding his appointment. The Board shall have at least one female member, at least one member  
4       who is of Carolinian descent, and at least one member from each Senatorial District.

5           Section 5.        Vacancies and Term of Office. Except as otherwise provided, an appointment  
6       to fill a vacancy caused by the expiration of the term of office shall be for a term of four years and shall be  
7       filled, except for a vacancy in the term of a public member, by a member from the same branch of the  
8       contracting business as was the branch of the member whose term has expired.

9           Section 6.        Removal. The Governor may remove any member of the Board for gross  
10      neglect or deriliction of duty, breach of fiduciary duty, conviction of a felony, or mental or physical  
11      incapacity.

12          Section 7.        Officers, Meetings. The Board shall elect from its members a Chairman, Vice  
13      Chairman, Treasurer, and Secretary, who shall serve for one year. The board shall meet at least four times  
14      a year or oftener upon the call of the Chairman at such times and places as the Chairman shall designate.

15          Section 8.        Quorum. Four members constitute a quorum at a Board meeting.

16          Section 9.        Committees. The Board may appoint such committees and such rules and  
17      regulations as are reasonably necessary to carry out the provisions of this Act.

18          Section 10.       Power of Board. The Board is vested with all functions and duties relating to  
19      the Administration of this Act. In addition, the CNMI Contractors License Board shall:

20           (a)       Grant license to Contractors pursuant to this Act. The Board shall set, by  
21      regulation, and collect a reasonable fee for issuance, renewal, and reinstatement of licenses; and changes of  
22      name, address, or business structure. The fees shall cover the full cost of issuing licenses, filing papers and  
23      notices, and administering and enforcing this Act.

4 (c) Suspend or revoke any license for any cause prescribed by law or, for any cause for  
5 suspension or revocation prescribed by the rules and regulations, refuse to grant any license for any cause  
6 which would be ground for revocation or suspension of license; and order remedial action for violators  
7 including but not limited to restitution to the complainants when deemed proper by the Board.

12                   The Registrar, with the approval of the Board and subject to budgetary limitations, may employ  
13                   such technical, clerical, and other personnel as may be necessary to carry out the purpose of this Act. The  
14                   Registrar shall be the Executive head of the CNMI Contractors License Board and shall be responsible to  
15                   the Board for carrying out all the programs and the administrative duties as provided in this Act and  
16                   powers delegated to him by the Board.

17 For the purpose of administration, there may be a Deputy Registrar, a Chief Reviewing and  
18 Hearing Officer and such other assistants and subordinates as may be necessary. Appointments shall be  
19 made by the Registrar in accordance with the provisions of civil service laws.

11 (1) Any contractor agreeing to perform any contracting project subject to this Act  
12 on real property or submerged lands or marine facilities when the bid or contract price totals one thousand  
13 dollars or more must provide the customer with the following disclosure statement prior to starting work on  
14 the project:

## “NOTICE TO CUSTOMER

16 This contractor is registered with the CNMI Contractors License Board, Registration No. \_\_\_\_\_  
17 \_\_\_\_\_, as a general/specialty contractor and has posted with the Board a bond or cash deposit of \$ \_\_\_\_\_  
18 \_\_\_\_\_ for the purpose of satisfying claims against the contractor for negligent or improper  
19 work or breach of contract in the conduct of the Contractor's business. This bond or cash deposit may not  
20 be sufficient to cover a claim which might arise from the work done under your contract. If any supplier of  
21 materials used in your construction project or any employee of the contractor or subcontractor is not paid  
22 by the contractor or subcontractor on your job, your property may be subject to a lien to force payment. If  
23 you wish additional protection, you may request the contractor to provide you with original "lien release"  
24 documents from each supplier or subcontractor on your project. The contractor is required to provide you

1 with further information about lien release documents if you request it. General information is also  
2 available from the office of CNMI Contractors License Board.”

3 (2) No contractor subject to this section may bring or maintain any action in any  
4 court of the Commonwealth for the collection of compensation for the performance of any work or for  
5 breach of any contract to which this section applies without alleging and proving that the contractor has  
6 provided the customer with a registered copy of the disclosure statement as required in subsection (1) of  
7 this section.

8 (3) Failure to comply with this section shall constitute an infraction under the  
9 provisions of this Act.

10 (4) The CNMI Contractors License Board shall produce model disclosure  
11 statements, and public service announcements detailing the information needed to assist contractors and  
12 contractors’ customers to comply with this section. As necessary, the Board shall periodically update these  
13 educational materials.

14 **ARTICLE II. Application of Act**

15 Section 1. Person Defined. ‘Person’ as used in this Act includes an individual, a firm,  
16 copartnership, corporation, association or other organization, or any combination of any thereof.

17 Section 2. Contractor Defined. A ‘Contractor’ as used in this Act is any person, firm or  
18 corporation who or which, in the pursuit of an independent business undertakes to, or offers to undertake,  
19 or submits a bid to, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish, for  
20 another, any building, road, excavation or other structure, project, development, or improvement attached  
21 to real estate or upon the submerged lands to do any part thereof including the installation of carpeting or  
22 other floor covering, the erection of scaffolding or other structures or works in connection herewith or who  
23 installs or repairs roofing or siding.

1           A “general contractor” is a contractor whose business operations require the use of more than two  
2        unrelated building trades or crafts whose work the contractor shall superintend or do in whole or in part;  
3        the term “general contractor” shall not include an individual who does all work personally without  
4        employees or other “specialty contractors” as defined herein. The terms “general contractor” and “builder”  
5        are synonymous. A “specialty contractor” is a contractor whose operations as such do not fall within the  
6        foregoing definition of “general contractor”.

7           “Self-Construction” means a project or operation performed by the owner for his own personal  
8        needs and his own premises; a self-constructed/performed project or operation shall otherwise be deemed  
9        performed by a contractor.

10          Section 3.        Contractor Includes Maintenance and Service.

11          ‘Contractor’ includes any person not exempt under Article III, Section 9 who maintains or  
12        services air conditioning, heating or refrigeration equipment that is a fixed part of the structure of which it  
13        is attached.

14          Section 4.        Advertising. Any person who advertises or puts out any sign or card indicating  
15        to the public that he is a contractor, or who causes his name or business name-style to be included in a  
16        classified advertisement or directory under a classification for construction or work of improvement  
17        covered by this Act is subject to the provisions of this Act.

18          Section 5.        Advertising; Penalty. It is a misdemeanor for any person to advertise for  
19        construction or work of improvement covered by this Act unless such person holds a valid license under  
20        the provisions of this Act in the classification so advertised. ‘Advertise’ as used in this Section includes,  
21        but is not limited to, the issuance of any card, sign, or device to any person; the causing, permitting, or  
22        allowing of any sign or marking on or in any building or structure or in any other way offering  
23        construction related services for compensation, or in any newspaper, magazine, or by airwave transmission

1       or any other form of mass media, or in any directory under a listing for construction or work of  
2       improvement covered by this Act, with or without any limiting qualifications.

3                   Section 6.        License Required; Previous Conviction. It is a misdemeanor for any person to  
4       engage in the business or act in the capacity of a contractor within the Commonwealth without having a  
5       license unless such person is particularly exempted from the provisions of this Act. If a person has been  
6       convicted of the crime of failure to obtain a Contractor's License the court shall impose a fine of not less  
7       than one hundred dollars (\$100.00) not more than two thousand dollars (\$2,000.00), or imprisonment in  
8       jail for not less than ten (10) days not more than (6) months, or both.

9                   Section 7.        Injunction Proceedings. In addition to all other remedies, when it appears to the  
10      Registrar, either upon complaint or otherwise, that a licensee has engaged in, or is engaging in, any act,  
11      practice, or transaction which constitutes a violation of this Act whereby another person may be  
12      substantially injured, or that any person, who does not hold a contractor's license in any classification, has  
13      engaged in, or is engaging in, any act, practice or transaction which constitutes a violation of this Act,  
14      whether or not there is substantial injury, the Registrar may either through the Attorney General Office of  
15      consumer counsel or using private, retained counsel, approved by the Attorney General, apply to the  
16      Commonwealth Superior Court for an injunction restraining such person from acting in the capacity of a  
17      contractor without a license in violation of this Act, or from acting in violation of this Act when another  
18      person may be substantially injured, and, upon a proper showing, a temporary restraining order, a  
19      preliminary injunction, or a permanent injunction shall be granted without bond.

20                   Section 8.        Injunction Against Nonlicenses. In addition to the remedies set forth, on proper  
21      showing by:

22                   1)       A licensed contractor, or an association of contractor;  
23                   2)       A consumer affected by the violation or;

21        Licensed Required for Construction Permit. The Coastal Resources Management, the Division of  
22        Historic Preservation, and the Division of Environmental Quality or other offices or agencies which issue  
23        permits as a condition precedent to the construction, alteration, improvement, demolition or repair of any  
24        building, or structure and clearing or excavation of grounds shall require that each applicant for such a

1 permit file, as a condition precedent to the issuance of a permit, a statement which he has prepared and  
2 signed stating that the applicant is licensed under the provisions of this Act, or will use licensed contractors  
3 as condition of permit issuance giving the number of the license and stating that it is in full force and  
4 effect, or, if the applicant is exempt from the provisions of this Act, the basis for the alleged exemption.

### ARTICLE III. Exemptions

13                   Section 1.        Public Personnel. This Act shall not apply to the United States government, the  
14                   Commonwealth of the Northern Marianas Government and its employees, when performing construction  
15                   or improvement work or services on behalf of the United States or Commonwealth government or to  
16                   Commonwealth municipalities.

1 without the appurtenances thereto is not intended or offered for sale, rent, or lease. In all actions brought  
2 under this Act, proof of the sale, rent or lease, or offering for sale, rent or lease of any such structure by the  
3 owner-builder within one year after completion of same is presumptive evidence that such structure was  
4 undertaken for purposes of sale, rent or lease.

5                   Section 5.        Personal Property. This Act shall not apply to owners of commercial properties  
6 who use their own employees to do maintenance, repair, and alteration work in or upon their own  
7 properties.

8                   Section 6.        Minor Work. This Act shall not apply to any work or operation on one  
9 undertaking or project by one or more contracts, the aggregate contract price for which labor, materials,  
10 and all other items, is less than five hundred dollars (\$500.00) such work or operations being considered as  
11 of casual, minor or inconsequential nature.

12                  Section 7.        Architect, Engineer. This Act shall not apply to a licensed architect or civil or  
13 professional engineer acting solely in his professional capacity and operating within the scope of his  
14 license.

15                  Section 8.        Materialmen. This Act shall not apply to any person who only furnishes  
16 materials or supplies, without fabricating them into, or consuming them in the performance of, the work of  
17 the contractor.

18                  Section 9.        Employee. Except as provided, this Act shall not apply to any person who  
19 engages in the activities herein regulated as an employee with wages as his sole compensation.

20                  Section 10.        Advertising Voids Exemption. This exemption shall not apply to a person who  
21 advertises or puts out any sign or card or other device which might indicate to the public that he is a  
22 contractor or that he is qualified to engage in the business of contractor.

23                  Section 11.        Farming, Etc. This Act shall not apply to any construction or operation  
24 incidental to farming, dairying, agriculture, aquaculture, horticulture, or stock or poultry raising, or

1 clearing or other work upon the land in farm lands for fire prevention purposes, except when performed by  
2 a licensee under this Act.

3                   Section 12.        Water Wells and Structures on Submerged Lands Not Exempt. The provisions  
4 of this Act shall apply to the business of drilling, digging, boring, or otherwise construction, deepening,  
5 repairing, reperforating, or abandoning water wells, and to the business of constructing docks, breakwaters,  
6 structures located on, over, or floating upon the submerged lands of the Commonwealth.

7                   ARTICLE IV.    Classifications

8                   Section 1.        Classifications. For the purpose of classification, the contracting business  
9 includes any or all of the following classes:

10                   a)        General Engineering Contracting;  
11                   b)        General Building Contracting  
12                   c)        Specialty Contracting.

13                   Section 2.        General Engineering Contractor. A General Engineering Contractor is a  
14 contractor whose principal specialized engineering knowledge and skill includes the following divisions or  
15 subjects; irrigation, drainage, water supply, flood control, harbors, docks and wharves, shipyards and ports,  
16 dams and hydroelectric projects, highways, streets and roads, tunnels, airport and airways, and sewage  
17 disposal plants and systems, waste reduction plants, overpasses and other similar works, pipelines and  
18 other systems for the transmission of petroleum and other liquid or gaseous substances, parks, playgrounds  
19 and other recreational works, chemical plants and similar industrial plants requiring specialized  
20 engineering knowledge and skill, power houses, power plants and other utility plants and installations, land  
21 leveling and earthmoving projects, excavating, grading, trenching, paving and surfacing work and cement  
22 and concrete works in connection with the above mentioned fixed works.

23                   Section 3.        General Building Contractor. A General Building Contractor is a contractor  
24 whose principal contracting business is in connection with any structure built, being built, or to be built, for

1       the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, requiring  
2       in its construction the use of more than two unrelated building trades or crafts, or to do or superintend the  
3       whole or any part thereof. This does not include anyone who merely furnishes materials or supplies  
4       without fabricating them into, or consuming them in the performance of the work of the general building  
5       contractor.

6                   Section 4.        Specialty Contractor. A Specialty Contractor is a contractor whose operations  
7       as such are the performance of construction work requiring special skill and whose principal contracting  
8       business involves the use of specialized building trades or crafts. A Specialty Contractor includes but is  
9       not limited to a contractor whose operations are concerned with the installation and laying of carpets,  
10      linoleum, and resilient floor covering and the fabrication, installation, repair and upgrade of plumbing,  
11      electrical or carpentry products or systems.

12                   Section 5.        Powers to Classify and Limit Operation of a Licensed Contractor. The Board  
13      may adopt reasonably necessary rules and regulations to effect the classification of contractors in a manner  
14      consistent with established usage and procedures as found in the construction business, and may limit the  
15      field and scope of the operations of a licensed contractor to those in which he is classified and qualified to  
16      engage, as defined. A licensee may make application for classification and be classified in more than one  
17      classification if the licensee meets the qualifications prescribed by the Board for such additional  
18      classification or classifications. The application shall be accompanied by the application fee fixed by this  
19      Act or as set by the Board. No license fee shall be charged for an additional classification or  
20      classifications.   Section 6.        Incidental Work. Nothing contained in this Section shall prohibit a  
21      specialty contractor from taking and executing a contract involving the use of two or more crafts or trades,  
22      if the performance of the work in the crafts or trades, other than in which he is licensed, is incidental and  
23      supplemental, and no less more than twenty (20%) percent to the performance of work in the craft for  
24      which the specialty contractor is licensed.

## ARTICLE V. Licensing

Section 1. Examinations. Under the rules and regulations adopted and approved by the Board, the Registrar shall classify and qualify applicants for contractors' licenses by written, or combination of written and oral examination. Neither the Board nor the Registrar may waive an examination for a contractor's license unless the applicant is a licensee who is applying for an additional license in the same classification or contracting activity. The term "licensee" shall include, but not be limited to, a responsible managing individual.

Section 2. Examination Preparation. The Board shall periodically review and, if needed, revise the contents of qualifying examinations to insure that the examination questions are timely and relevant to the business of contracting.

Section 3. Waiver of Written Examination; Responsible Managing Individual.

Notwithstanding Section 1, under the Rules and Regulations adopted and approved by the Board, the Registrar may waive a written examination for an individual applying to qualify as a responsible managing individual on behalf of a licensee if the individual applying to qualify has been continually employed by the licensee in a supervisory capacity for not less than five continuous years immediately preceding such application, and the licensee has held a license from a regulatory body in the United States or the Commonwealth in good standing for not less than five continuous years in the same classification as the classification being applied for.

Section 4. Minor. No license shall be issued to a minor or person under the age of 18 years unless such minor shall first have had a guardian appointed by a court of competent jurisdiction.

Section 5. Application for an Original License. To obtain an original license, an applicant shall submit to the Registrar an application in writing containing the statement that the applicant desires the issuance of a license under the terms of this Act.

1                   Section 6.        Financial Solvency. Every applicant for an original license, or for the  
2                   reactivation of an inactive license, or for the reissuance or reinstatement of a revoked license shall possess  
3                   and every such applicant, other than the one applying under joint license unless required by the Registrar,  
4                   shall file evidence of financial solvency. For purposes of this Section, Financial Solvency shall mean that  
5                   the applicant's operation capital shall exceed Five Thousand Dollars (\$5,000.00). The Registrar shall deny  
6                   the application of any applicant who fails to comply with this Section.

7                   The financial information required by the Registrar shall be confidential and not a public record,  
8                   but, where relevant, shall be admissible as evidence in any administrative hearing or judicial action or  
9                   proceeding. The Registrar may destroy any financial information which has been on file for a period of at  
10                   least two (2) years.

11                   Section 7.        Signatures on Applications. Every application form for an original license,  
12                   renewal thereof, reinstatement or for reissuance, including both active and inactive licenses, shall be signed  
13                   by both the applicant and by the person qualifying on behalf of an individual or firm.

14                   Section 8.        Experience and Knowledge Required. The Board shall require an applicant to  
15                   show such degree of knowledge and experience in the classification applied for, and such general  
16                   knowledge of the building, safety, health, labor and lien laws of the Commonwealth and of the  
17                   administrative principles of the contracting business as the Board deems necessary for the safety and  
18                   protection of the public. An applicant shall qualify in regard to his experience and knowledge in one of the  
19                   following ways:

20                   a)        If an individual, he shall qualify by personal appearance or the appearance of his  
21                   responsible managing employee who is qualified for the same license classification being applied for.

22                   b)        If a copartnership or a limited partnership, it shall qualify by the appearance of a  
23                   general partner or the appearance of a responsible managing employee who is qualified for the same  
24                   license classification as the classification being applied for.

4                   A responsible employee, shall mean all individuals, who are bona fide employees of the applicant  
5                   and are actively engaged in the classification of work for which such responsible employee is the  
6                   qualifying person on behalf of the applicant.

7                   The Board shall, in addition, require an applicant who qualifies by means of a responsible  
8                   employee under either subsection (a) or (b) to show his general knowledge of the building, safety, health,  
9                   labor and lien laws of the CNMI and of the administrative principles of the contracting business as the  
10                  Board deems necessary for the safety and protection of the public.

11 At the time of application for a renewal of a license, the responsible managing individual shall file  
12 a statement with the Registrar, verifying his capacity as a responsible managing individual to the licensee.

3 "Firm" as used in this Section, means a copartnership, a limited partnership, a corporation, or any  
4 other combination or organization described in Section 9.

5                   “Person” as used in this Section, is limited in natural person, notwithstanding the definition of  
6                   “person” in Section 1 of Article II. The Board shall require every applicant or licensee qualifying by the  
7                   appearance of a qualifying individual to submit detailed information on the qualifying individual’s duties  
8                   and responsibilities for supervision and control of the applicant’s construction operations.

21                   Section 12.        Notification of Disassociation; Effect. If the individual qualifying for the  
22                   license is a responsible officer or responsible employee and ceases for any reason whatsoever to be  
23                   connected with the individual or firm to whom the license is issued, the licensee and the responsible officer  
24                   or responsible managing employee qualifying for such license shall notify the Registrar in writing within

1       30 days from such cessation. If a notice is given the license shall remain in force for a reasonable length of  
2       time to be determined by the Board.

3           Section 13.     Failure to Notify Disassociation; Effect. If the licensee or his responsible  
4       managing officer or responsible managing employee qualifying for a license fails to notify the Registrar in  
5       writing within the 30-day period, at the end of the period the license shall be automatically suspended.

6           Section 14.     Bond Form and Purpose. Each applicant must file a bond or cash deposit when  
7       applying for or renewing a license in the sum of Twenty-Five Thousand Dollars (\$25,000.00).

8           Section 15.     Bond Mandatory after Disciplinary Action. If application for a license, or for  
9       restoration of a license, is made by:

10           1)       Any person whose license has been suspended or revoked as a result of  
11       disciplinary action;

12           2)       Any person who was an officer, director, member, partner or qualifying  
13       individual for a licensee at any time during which cause for disciplinary action occurred resulting in  
14       suspension or revocation of said licensee's license;

15           3)       Any partnership, corporation, firm or association of which any officer, director,  
16       member, partner or qualifying person has had his license suspended or revoked;

17           4)       Any partnership, corporation, firm or association of which any officer, director,  
18       member, partner or qualifying person was a member, officer, director, partner or qualifying person of a  
19       licensee at any time during which cause for disciplinary action occurred, resulting in suspension or  
20       revocation of said license, and who had knowledge of or participated in the act or omission which was the  
21       cause for such disciplinary action for violation of this Act.

22           The Board shall require the applicant prior to issuance or reissuance of a license to file or have on  
23       file a contractor's bond or cash deposit in the sum to be fixed by the Registrar based upon the seriousness

1 of the violation, but which sum shall not be less than three times nor more than ten (10) times Five  
2 Thousand Dollars (\$5,000.00).

3                   Section 16.       Purpose and Form of Bond. The qualifying individual's bond or cash deposit  
4 required by this Act shall be a bond issued by an admitted surety in favor of the CNMI, in a form  
5 acceptable to the Registrar and filed with the Registrar by the licensee or applicant, or in lieu thereof cash  
6 deposit posted with the Registrar. The bond or cash deposit is conditioned so that the applicant will pay all  
7 persons performing labor, including employee benefits, for the contractor, will pay all taxes and  
8 contributions due to the Commonwealth Government, and will pay all persons furnishing labor or material  
9 or renting or supplying equipment to the contractor or any other goods or services subcontracted which are  
10 in furtherance of the work being performed and will pay all amounts to customer or consumer that may be  
11 stipulated as owing or adjudged against the contractor by reason of negligent or improper work or breach  
12 of contract in the conduct of the contracting business. A change in the name of a business or a change in  
13 the type of business entity shall not impair a bond for the purposes of this section so long as one of the  
14 original applicants for such bond maintains partial ownership in the business covered by the bond.

15                   Section 17.       Action at Law against Bond or Cash Deposit - Limitation on Actions. Any  
16 person claiming against any bond or cash deposit required by this Act may maintain an action at law  
17 against the licensee and the surety or the cash depository. A copy of the complaint shall be served by  
18 registered or certified mail upon the Registrar by the clerk of court at the time action is commenced and the  
19 Registrar shall maintain a record, available for public inspection, of all actions so commenced.

20                   The surety upon the bond shall not be liable in an aggregate amount in excess of the amount  
21 named in the bond nor for any monetary penalty assessed pursuant to this Article for an infraction. The  
22 surety upon the bond may, upon notice to the Board and the parties, tender to the clerk of court having  
23 jurisdiction of the action an amount equal to the claims thereunder or the amount of the bond less the  
24 amount of judgments, if any, previously satisfied therefrom and to the extent of such tender the surety upon

1 the bond shall be exonerated. But if the actions commenced and pending at any one time exceed the  
2 amount of the bond then unimpaired, claims shall be satisfied from the bond in the following order:

- 3 a) Claims for breach of contract by a party to the construction contract;
- 4 b) Labor, including employee benefits;
- 5 c) Material and equipment;
- 6 d) Taxes and contributions due to the CNMI Government;
- 7 e) Any court costs, interest, and attorney's fees plaintiff may be entitled to recover.

8 Any action, against a bond or cash deposit filed by an active licensee shall be brought within two  
9 years after the expiration of the license period or periods for which a bond or cash deposit has been  
10 provided, or within two years of the date the license of such active licensee was inactivated by the Board or  
11 within two years of the completion of a contract for work performed, whichever is less.

12 If the surety desires to make payment without awaiting court action, the amount of any bond filed  
13 in compliance with this Act shall be reduced to the extent of any payment or payments made by the surety  
14 in good faith thereafter. The partial payment of any claims shall not be considered satisfaction of such  
15 claims and the claimants may institute appropriate legal action for payment of any unpaid balance in any  
16 other manner provided by law, and the Registrar may continue suspension or revocation of any license  
17 involved until such time as said claims and any other claims arising out of an action against such bond or  
18 cash deposit are satisfied in full.

19 When the surety makes payment on any claim against the bond required by this Article, whether  
20 or not payment is made through a court action or otherwise, the surety shall, within 30 days of the  
21 payment, notify the Registrar, stating amount of payment and other pertinent information. Acceptance of  
22 non-conforming or partially conforming work shall not be the party for whom work was performed from  
23 filing a claim against the contractor against such non-conforming a partially conforming work.

1           Any judgement or admitted claim against any bond and cash deposit required by this Article shall  
2           constitute grounds for disciplinary action against such licensee. Such license may not be reissued or  
3           reinstated while any judgement or admitted claim in excess of the amount of the bond or cash deposit  
4           remains unsatisfied. Further, such license may not be reissued or reinstated while any surety remains  
5           unreimbursed for loss and expense sustained on any bond issued for such licensee or for any entity of  
6           which any officer, director, member, partner, or qualifying person was an officer, director, member,  
7           partner, or qualifying person of such licensee while such licensee was subject to disciplinary action under  
8           this section. The Board shall require the licensee to file a new bond in an amount as required pursuant to  
9           Section 15 or to increase his cash deposit to such an amount.

10           Section 18.       Bond not to be Denied. No licensee or applicant for a license under this Act  
11           shall be denied a contractor's license bond solely because of his race, religion, creed, color, nationality,  
12           origin, ancestry, or sex. Anyone found guilty of such license denial is liable and can be held accountable,  
13           by the Registrar, for Five Hundred Dollars (\$500.00) per offense, and shall lose their business license.

14           Section 19.       Administration of Security. The Board may promulgate rules necessary for the  
15           proper administration of the security. The Board may provide for alternative requirements of a cash  
16           deposit.

17           Section 20.       Application Fee and Acceptable Application. Following the receipt of the  
18           application furnishing complete information, in the manner required by the Registrar, and after such  
19           examination and investigation as he may require, the Registrar, within 15 days after approval of the  
20           application, shall notify the applicant, that a license may be issued to him on payment of the initial license  
21           fee, and, when the initial license fee is paid, shall issue a license to him to engage in business as a  
22           contractor under the terms of this Act.

23           Section 21.       Denial of Application. If information is brought to the attention of the Registrar  
24           establishing grounds for denial of a license to an applicant, the Registrar at his discretion may deny the

1 application and shall notify the applicant to show cause within thirty 30 days, why the application should  
2 not be denied.

3 Section 22. License is Nontransferable and must be Posted. The license shall be  
4 nontransferable and shall be displayed in the licensee's main office or primary place of business.

5 Section 23. Death; Individual or Copartner. A partnership license shall terminate upon the  
6 death of a partner or upon the disassociation of a partner for any reason whatsoever. However, the  
7 remaining partner or partners shall be entitled to continue in business under such license for a reasonable  
8 length of time to be determined by rules of the Board, provided application for permission is made to the  
9 Registrar within 30 days after death or disassociation of the partner, and such application is approved by  
10 the Registrar.

11 Section 24. Cancellation of Voluntarily Surrendered License. Upon the voluntary surrender  
12 of a license by a licensee, the Registrar shall order the license canceled. Cancellation will be effective  
13 upon receipt of the request by the Registrar. No refund will be made of any fees.

14 To reinstate a canceled license the licensee must pay all of the fees and meet all of the  
15 qualifications and requirements set forth in this Act for obtaining an original license.

16 Section 25. Inactive License. The holder of an inactive license shall not be entitled to  
17 practice as a contractor until his license is reinstated. ARTICLE VI. Records

18 Section 1. Record. The Registrar shall maintain, open to public inspection during office  
19 hours, a complete, indexed record of all application licenses issued, licenses renewed and all revocations,  
20 cancellations and suspensions of licenses. Copies of the lists of licensed contractors may be furnished  
21 upon request to any firm or individual upon payment of a reasonable fee fixed by the Board.

22 Section 2. Arbitration. After investigating any verified complaint alleging a violation of  
23 this Act and finding a probable violation, the Board may, with the concurrence of both the licensee and the  
24 complainant, refer the alleged violation, and any dispute between the licensee and the complainant arising

thereunder, to binding arbitration pursuant to this Article, provided:

a) There is evidence the complainant has suffered or is likely to suffer material damages as a result of the violation;

b) That the public interest would be better served by arbitration than the disciplinary action;

c) The licensee does not have a history of repeated or similar violations;

d) The licensee is in good standing and has the financial capacity to perform;

e) The licensee does not have any outstanding disciplinary actions filed against him;

f) The licensee has not requested nor have the parties agreed to private arbitration of the dispute pursuant to contract or otherwise.

Section 3. Arbitration Notice. Once the Registrar determines that arbitration would be a suitable means of resolving the dispute, the Registrar shall notify the complainant and the licensee of this decision. The Registrar shall also notify the complainant of the consequences of selecting administrative arbitration over judicial remedies. The Registrar shall provide forms to be filled out by the complainant and the licensee and returned to the Registrar within 15 days authorizing the Registrar to proceed with administrative arbitration. Failure of the complainant to timely request administrative arbitration shall be cause for the dismissal of the complaint by the Registrar unless the complainant can show good cause for such failure. Upon a failure or refusal of the licensee to consent to administrative arbitration, the Registrar shall take disciplinary action against the licensee.

Section 4. Arbitration Rules. Once the complainant and the licensee authorize the Registrar to proceed with administrative arbitration, the Registrar shall refer the matter to the Board which adopts and enforces such rules and regulations as are reasonably necessary to administer such arbitration in accordance with the provisions of this Article.

## ARTICLE VII. Disciplinary Proceedings

17 If the Registrar finds a licensee has engaged in repeated acts which would be grounds for  
18 disciplinary action under this Article, the corrections of those conditions shall not in and of itself preclude  
19 the Registrar from taking disciplinary action under this Article.



1                   Section 8.        Order of Correction. The Board shall promulgate regulations covering the  
2                   formulation of an order of correction which gives due consideration to the time required to correct and the  
3                   practical feasibility of correction.

4                   Section 9.        Civil Penalties. The Board shall promulgate regulations covering the  
5                   assessment of civil penalties under this Article which give due consideration to the appropriateness of the  
6                   penalty with respect to the following factors:

- 7                   1)        The gravity of the violation.
- 8                   2)        The good faith of the licensee being charged.
- 9                   3)        The history of previous violations.
- 10                  4)        In no event should the civil penalty be assessed in an amount greater than Two  
11                  Thousand Dollars (\$2,000.00).

12                  Section 10.       Appeal. Any licensee served with a citation may appeal to the Registrar within  
13                  15 working days from receipt of such citation with respect to violations alleged by the Registrar, correction  
14                  period, amount of penalties, and the reasonableness of the change required by the Registrar to correct the  
15                  condition.

16                  Section 11.       Notice of Intent of Contest Citation. If a licensee notifies the Registrar that he  
17                  intends to contest a citation issued, the Registrar shall afford an opportunity for a hearing.

18                  Section 12.       Failure to Comply. The failure of a licensee to comply with an order of  
19                  correction or to pay any civil penalty assessed after the order or assessment is final is a ground for  
20                  suspension or revocation of license.

21                  Section 13.       Abandonment. Abandonment without legal excuse of any construction project  
22                  or operation engaged in or undertaken by the licensee as a contractor constitutes a cause for disciplinary  
23                  action.

1                   Section 14.        Revocation, Suspension and Renewal of Licenses. The CNMI Contractor's  
2                   License Board may revoke, suspend, or refuse to renew any such license for any of the following causes:  
3                   1)           Conviction of any felony or misdemeanor involving moral turpitude;  
4                   2)           Continued and flagrant actions of misrepresentation or of making false promises  
5                   through advertising or otherwise;  
6                   3)           Failure to make and keep records in English, showing all contracts, documents,  
7                   records, receipts and disbursements by a licensee of all his transactions as a contractor for a period  
8                   of not less than two (2) years after completion of any construction project to which the records  
9                   refer or to permit inspections of such records by the Board;  
10                   4)           When the licensee, being a corporation, permits any officer or employee of such  
11                   corporation who does not hold a license to have the direct management of the contracting business  
12                   thereof;  
13                   5)           when the licensee being a copartnership or joint venture permits any member of  
14                   such copartnership to actively participate in the contracting business thereof;  
15                   6)           The false denial of any debt due or the validity of the claim therefore with intent  
16                   to hinder, delay or defraud the person to whom such debt is due;  
17                   7)           When the responsible management employee and/or the majority stockholders  
18                   have, under another corporate or company structure, caused the non-payment of employees wages  
19                   and/or the abandonment of alien workers to become a burden of the government;  
20                   8)           Failure to secure or maitain any required worker's compensation insurance.  
21                   Section 15.        Misuse of Funds. Flagrant misuse, diversion, unaccountability of funds or  
22                   property received for the execution or completion of a specific construction project or operation constitutes  
23                   a cause for disciplinary action.

1                   Section 16.        Disregard of Plans or Specification. Willful departure by the licensee from  
2                   plans or specifications or changes issued thereto by owner or duly authorized representative or, in the  
3                   absence of specific requirements within the plans or specifications, departure from directions of the owner  
4                   or his duly authorized representative done without the consent of the owner or his representative entitled in  
5                   accordance with such plans and specifications, constitutes a cause for disciplinary action.

6                   Section 17.        Violation of Safety Orders. Violation of safety orders or lawful requirements  
7                   protecting against serious injury or death to an employee constitutes a cause for disciplinary action.

8                   Section 18.        Composition, Arrangement, Etc. No disciplinary action shall be commenced  
9                   against a licensee for lawful recourse to bankruptcy, or for composition of creditors, or reorganization with  
10                   creditors, or other legitimate efforts of the licensee to resolve lawful obligations incurred as a contractor for  
11                   less than the full amount of such obligations.

12                   Section 19.        Personnel Variance. Acting in the capacity of a contractor under any license  
13                   issued hereunder except:

14                   a)            In the name of the licensee as set forth upon the license.   b)            In  
15                   accordance with the personnel of the licensee as set forth in the application for such license, or as  
16                   later changed as provided in this Act, constitutes a cause for disciplinary action.

17                   Section 20.        Inactive License; Contracting; Penalty. Acting in the capacity of a contractor  
18                   under any license which has been made inactive constitutes a cause for disciplinary action.

19                   Section 21.        Lack of Reasonable Diligence. Willful failure or refusal without legal excuse  
20                   on the part of a licensee as a contractor to execute a construction project or operation with reasonable  
21                   diligence causing material injury to another constitute a cause for disciplinary action.

22                   Section 22.        Withholding Money. Willful or deliberate failure by any licensee or agent or  
23                   officer thereof to pay any moneys, when due for any materials/services rendered in connection with his  
24                   operations as a contractor, is cause for disciplinary action.

13           The insurer shall thereafter report to the Registrar any cancellation or lapse of the policy within 10  
14           days after such cancellation or lapse. A renewal of a policy or a new policy in lieu of one that has expired  
15           is not considered a cancellation or lapse.

## ARTICLE VIII. Revenue

19                   Section 1. Appropriations. The fees and civil penalties received under this Act shall be deposited  
20                   in the “Contractors Fund”. All monies in the fund are hereby appropriated for the purposes of this Act and  
21                   shall not revert to the general fund, but will remain available until expended.

1                   Section 3.        Schedule of Fees. The amount of the fees prescribed by this Act is that fixed by  
2                   the following schedule provided that the Board may adjust such fees so that the total of such fees shall not  
3                   produce a total estimated revenue which is in excess of the estimated total cost to the Board for the  
4                   administration of this Act:

5                   a)        The application fee for an original license in a single classification is One  
6                   Hundred Dollars (\$100.00).

7                   b)        After failure of an examination, the fee for re-examination of an applicant who  
8                   has applied for an original license, additional classification, or a change of responsible managing  
9                   officer or responsible managing employee, shall be at least One Hundred Dollars (\$100.00).

10                  c)        The renewal fee for an active license shall be Two Hundred Dollars (\$200.00),  
11                  but the Board may increase the fee to not more than Two Hundred Fifty Dollars (\$250.00). The  
12                  renewal fee for an inactive license is Twenty Dollars (\$20.00), but the Board may increase the fee  
13                  to not more than Forty Dollars (\$40.00).

14                  d)        The delinquency fee is an amount equal to ten percent (10%) of the renewal fee.

15                  e)        The initial license fee is an amount equal to the renewal fee in effect on the last  
16                  regular renewal date before the date on which the license is issued, except that, if the license will  
17                  expire less than six months after its issuance, then the initial license fee is an amount equal to fifty  
18                  percent of the renewal fee in effect on the last regular renewal date before the date on which the  
19                  license is issued.

20                  f)        The application fee for each additional classification pursuant to the provisions  
21                  of Section 5 of Article IV is One Hundred Dollars (\$100.00).

22                  g)        The application fee to replace a responsible managing officer or employee is  
23                  One Hundred Dollars (\$100.00).

24                   ARTICLE IX.    Renewal of Licenses

1                   Section 1.        Expiration of Licenses. All licenses issued under the provisions of this Chapter  
2                   shall expire on June 30th of each year.

3                   Section 2.        Annual Renewal. To renew a license which has not expired, the licensee shall,  
4                   before the time at which the license would otherwise expire, apply for renewal on a form prescribed by the  
5                   Registrar and pay the renewal fee prescribed.

6                   Section 3.        Renewal after Expiration. Except as otherwise provided, a license may be  
7                   renewed at any time within one year after its expiration upon filing of the application and payment of the  
8                   renewal fee and delinquency fee.

9                   Section 4.        Retroactive Renewal. The Registrar may review the license of a contractor who  
10                  failed to renew the same by the due date and renew retroactively to the first day of the renewal period  
11                  within which the contractor files an application for renewal. This is only applicable for a period of six (6)  
12                  months. The contractor must show that such failure to renew was due to mistake, inadvertence, surprise or  
13                  excusable neglect.

14                  Section 5.        Renewal of Suspended License. A license which is suspended for any reason  
15                  which constitutes a basis for suspension, is subject to expiration and shall be renewed as provided in this  
16                  Act, but such renewal does not entitle the licensee, while suspended, and until it is reinstated, to engage in  
17                  the license activity.

18                  Section 6.        New License Requirements. A person who, by reason of the provisions of  
19                  Section 3 of Article IX is not entitled to renew his license, may apply for and obtain a new license only if  
20                  he pays all of the fees and meets all the qualifications and requirements set forth for obtaining an original  
21                  license.

22                  Section 7.        No Renewal of Revoked License. A revoked license shall be considered as  
23                  having expired as of the date of revocation and shall not be renewed. To reinstate a revoked license, a

1 licensee must pay all fees and meet all of the qualifications and requirements for obtaining an original  
2 license.

3 Section 8. . Title 4 CMC, Division 3, Section 3105 is amended as follows:

4 “§3105. Board of Professional Licensing: Duties.

5 The Board of Professional Licensing shall have the power and duty to issue  
6 licenses and adopt credentialing criteria for persons who seek to engage in the following  
7 professions or trades within the Commonwealth:

8 (a) Architects;  
9 (b) Engineers;  
10 (c) Surveyors;  
11 (d) Ship’s Officers;  
12 (e) Barbers and Beauticians;  
13 (f) Other professions or trades which are not exempted by Section  
14 3107 or as may be provided by law.”

15 Section 9. Title 4 CMC, Division 3, Section 3107, is amended as follows:

16 “§3107. Board of Professional Licensing: Exemptions.

17 The Board of Professional Licensing does not have jurisdiction over  
18 the following:

19 (a) Admission to the bar or the discipline of members of the legal  
20 profession;  
21 (b) The licensing, certification or credentialing of teachers;  
22 (c) The licensing, certification or credentialing of persons who  
23 practice the healing arts;

(d) A trade or profession over which exclusive jurisdiction as to licensing, certification or credentialing has been given to an agency of the United States or to another department, agency or instrumentality of the Commonwealth;

(e) The licensing, certification or credentialing of persons engaged in construction related trades, except as provided for in Section 3105 of this Chapter.”

Section 10. Severability. If any Section of this Act should be declared invalid by a court of competent jurisdiction, the remainder of this Act shall not be affected thereby.

Section 11. Effective Date. This Act shall take effect upon its approval by the Governor or  
is becoming law without such approval.

Date: \_\_\_\_\_ Introduced By: Sen. Paul A. Manglonan