

FIRST REGULAR SESSION, 1996

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 dereliction 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.

1 (b) Make, amend or repeal such rules and regulations pursuant to 1 CMC §9101 et.
2 seq., as it may deem proper to fully effectuate this Act and carry out the purpose thereof, which purpose is
3 the protection of the general public.

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.

8 Section 11. Director of CNMI Contractors License Board - Duties. A Director hereinafter
9 called the “Executive Registrar” or “Registrar” shall be appointed by the Governor and confirmed with the
10 advice and consent of the Board, and shall hold office as specified herein and shall be a civil service
11 employee compensated in accordance with the Commonwealth Salary Act of 1991, as amended.

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.

20 Section 12. Final Authority. The Board may in its discretion review and sustain or reverse
21 by a majority vote any action or decision of the Registrar, but any decision of the Board is subject to the
22 Administrative Procedure Act.

23 Section 13. Seal. The Board shall adopt a seal for its own use. The seal shall contain the
24 words ‘CNMI Contractors License Board’.

1 Section 14. Report; Public Records. The Board, in addition to other, required, periodic
2 reports, shall submit to the Governor a full and true report of its transaction during the preceding quarter,
3 including a complete statement of the receipt and expenditures of the Board during the period. All records
4 of the Board shall be open to the public, copies to be provided upon request within a reasonable time and at
5 reasonable cost.

6 Section 15. Compensation. The members of the Board shall be compensated pursuant to 1
7 CMC Section 8247 and may be reimbursed in accordance with Commonwealth law for any reasonable and
8 necessary expenses incurred in the performance of their duties under this Act. Rules and rates for travel
9 and per diem rates shall be the same of those established for the Executive Branch.

10 Section 16. Disclosure Statement Required-Prerequisite to Suit.

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:

15 “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;

1 3) The Attorney General Consumer Counsel, of a continuing violation of this Act
2 by a person who does hold contractor's license in any classification, an injunction shall be issued by a
3 court specified in Section 7 at the request of any such party, prohibiting such violation. The plaintiff in any
4 such action shall not be required to prove irreparable injury and shall be entitled to reasonable attorneys'
5 fees and costs of suit.

6 Section 9. Individual Licenses. It is unlawful for any person who is or has been a member,
7 officer, director or responsible managing officer of a licensed copartnership, corporation, firm, association
8 or other organization to individually engage in the business or individually act in the capacity of a
9 contractor within the Commonwealth without having a license in good standing to engage or act.

10 Section 10. Joint Licenses. It is unlawful for any two or more licensees, each of whom has
11 been issued a license to engage separately in the business or to act separately in the capacity of a contractor
12 within the Commonwealth, to jointly submit a bid or otherwise act in the capacity of contractor within the
13 Commonwealth without first having secured an additional license for acting in the capacity of such a joint
14 venture or combination in accordance with the provisions of this Act as provided for an individual,
15 copartnership or corporation.

16 Section 11. License Number Required. Every person licensed pursuant to this Act shall
17 include his or her license number in:

- 18 a) All construction contracts;
- 19 b) Subcontracts and calls for bid;
- 20 c) All forms of advertising, as prescribed by the Registrar. Section 12.

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.

5 Section 13. Business License. The Department of Commerce and Labor which requires the
6 issuance of a business license as a condition precedent to engaging in a business within the Commonwealth
7 shall required with regards to contractors, that each licensee and each applicant for issuance or renewal of
8 such license shall file, or have on file, a signed statement that such licensee or applicant is licensed under
9 the provisions of this Act and stating that the license is in full force and effect, or, if such licensee or
10 appli9cant is exempted from the provisions of this Act, shall furnish proof of the facts which entitled him
11 to such exemption.

12 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.

17 Section 2. Court Officers. This Act shall not apply to officers of the Court when they are
18 acting within the scope of their office.

19 Section 3. Public Utilities. This Act shall not apply to public utilities operating under the
20 regulation of the Utilities Corporation or agency in construction, maintenance and development work
21 incidental to their own business.

22 Section 4. Owners. This Act shall not apply to an owner of property, building or
23 improving structures thereon, or appurtenances thereto, who does such work himself or through his own
24 employees with wages as their sole compensation; provided that such structure, or structures, with or

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

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

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

ARTICLE IV. Classifications

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

- a) General Engineering Contracting;
- b) General Building Contracting
- c) Specialty Contracting.

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

Section 3. General Building Contractor. A General Building Contractor is a contractor 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.

21 Section 6. Incidental Work. Nothing contained in this Section shall prohibit a
22 specialty contractor from taking and executing a contract involving the use of two or more crafts or trades,
23 if the performance of the work in the crafts or trades, other than in which he is licensed, is incidental and
24 supplemental, and no ~~less~~ more than twenty (20%) percent to the performance of work in the craft for
which the specialty contractor is licensed.

1 ARTICLE V. Licensing

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

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

11 Section 3. Waiver of Written Examination; Responsible Managing Individual.
12 Notwithstanding Section 1, under the Rules and Regulations adopted and approved by the Board, the
13 Registrar may waive a written examination for an individual applying to qualify as a responsible managing
14 individual on behalf of a licensee if the individual applying to qualify has been continually employed by
15 the licensee in a supervisory capacity for not less than five continuous years immediately preceding such
16 application, and the licensee has held a license from a regulatory body in the United States or the
17 Commonwealth in good standing for not less than five continuous years in the same classification as the
18 classification being applied for.

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

21 Section 5. Application for an Original License. To obtain an original license, an applicant
22 shall submit to the Registrar an application in writing containing the statement that the applicant desires the
23 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.

1 c) If a corporation, or any other combination or organization, it shall qualify by the
2 appearance of a responsible managing officer or responsible managing employee who is qualified for the
3 same 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.

13 Section 10. Responsibility of Qualifying Individual. The person qualifying on behalf of an
14 individual or firm under subsection (a), (b), or (c) of Section 9 shall be responsible for exercising such
15 direct supervision and control of his employer's or principal's construction operations as is necessary to
16 secure full compliance with the provisions of this Act and the rules and regulations of the Board relating to
17 such construction operations and such additional individual or firm unless one of the following conditions
18 exists:

19 a) There is a common ownership of at least twenty percent (20%) of the equity of
20 each individual or firm for which the person acts in a qualifying capacity.

21 b) The additional firm is a subsidiary of or a joint venture with the first.
22 "Subsidiary" as used in this subsection means any firm with at least twenty percent (20%) of the equity of
23 which is owned by the other firm.

c) With respect to a firm under subsection (b) or (c) of Section 9, the majority of the partners or officers are the same.

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

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

~~Section 10~~ Section 11. Action of Application. Within forty-five (45) days after the filing of a proper application for a license and the payment of the required fees, the Contractors License Board shall:

a) Conduct an investigation of the applicant, and in such investigation may post pertinent information, including but not limited to, the name and address of the applicant; and if the applicant is associated in any partnership, corporation, or other entity, the names, addresses, and official capacities of his associates; and

b) Either issue a license to the applicant or else notify him in writing of the Board’s decision not to grant the license and specifically notify applicant of his right to have a hearing within fifteen (15) days of the Board’s decision. The hearing shall be conducted in accordance with the rules and regulations adopted by the Board. If after forty-five (45) days of filing a proper application for a license and the payment of the required fees, the Contractors License Board has not rejected such application, the application will be deemed to have been approved by the Contractors License Board.

Section 12. Notification of Disassociation; Effect. If the individual qualifying for the license is a responsible officer or responsible employee and ceases for any reason whatsoever to be connected with the individual or firm to whom the license is issued, the licensee and the responsible officer 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

1 thereunder, to binding arbitration pursuant to this Article, provided: a) There is evidence the
2 complainant has suffered or is likely to suffer material damages as a result of the violation;
3 b) That the public interest would be better served by arbitration than the
4 disciplinary action;
5 c) The licensee does not have a history of repeated or similar violations;
6 d) The licensee is in good standing and has the financial capacity to perform;
7 e) The licensee does not have any outstanding disciplinary actions filed against
8 him;
9 f) The licensee has not requested nor have the parties agreed to private arbitration
10 of the dispute pursuant to contract or otherwise.

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

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

1 Section 5. Failure to Comply. The failure of a licensee to comply with an arbitration
2 award rendered under this article shall constitute grounds for the suspension or revocation of the license by
3 the Registrar.

4 ARTICLE VII. Disciplinary Proceedings

5 Section 1. Jurisdiction. The Board shall upon the verified complaint in writing of any
6 person, investigate the actions of any contractor within the Commonwealth and may temporarily suspend
7 or permanently revoke any license or registration of the holder if he is guilty of or commits any one or
8 more of the acts or omissions constituting causes for disciplinary action.

9 Section 2. Failure to obtain Permits, Pay Fees. Notwithstanding any provision of this Act,
10 if the Registrar finds that any contractor licensed or registered under the provisions of this Act has willfully
11 and deliberately violated any local law relating to the issuance of permits (PDW building permits, Coastal
12 Resources Management, Division of Historic Preservation, Division of Environmental Quality, etc.), or has
13 failed to pay connection fees or impact fees, the Board shall suspend or revoke the contractor's license.

14 Section 3. Fraud. In the event a licensee commits a fraudulent act which is a ground for
15 disciplinary action under Section 21, the correction of any condition resulting from such act shall not in
16 and of itself preclude the Registrar from taking disciplinary action under this Act.

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.

20 Section 4. Time for Action; Power and Proceedings. All accusations against licensees
21 shall be filed within two (2) years after the act or omission alleged as the grounds for disciplinary action,
22 except that with respect to an accusation alleging a violation of Section 19, of Article VII the accusation
23 may be filed within one year after the discovery by the Registrar or by the Board of the alleged facts
24 constituting the fraud or misrepresentation prohibited by the Section.

1 Nothing in this Section should be construed to affect the liability of a surety or the period of
2 limitations prescribed by law for the commencement of actions against a surety or cash deposit.

3 Section 5. Decision and Penalties. The decision may:

4 a) Provide for the immediate suspension of the Contractor's license during a
5 period fixed by the decision.

6 b) Permit the licensee to complete any or all contracts shown by competent
7 evidence taken at the hearing to be then uncompleted.

8 c) Impose upon the licensee compliance with such specific conditions as may be
9 just, in connection with his operations as a contractor disclosed at the hearing and may further provide that
10 until such conditions are complied with no application for restoration of the suspended or revoked license
11 shall be accepted by the Registrar.

12 d) Impose penalty to any person who violates or omits to comply with any of the
13 provisions of this Act not to exceed Ten Thousand Dollars (\$10,000.00).

14 Section 6. Suspension and Revocation of Additional Licenses. When any license has been
15 suspended or revoked under the provisions of this Act, any additional license issued under this Act in the
16 name of the licensee or for which the licensee furnished qualifying experience and appearance under the
17 provisions of Section 9, Article V may be suspended or revoked by the Board without further notice.

18 Section 7. Citation. If, upon investigation, the Board has probable cause to believe that a
19 licensee has violated provisions of this Act which are grounds for revocation or suspension, the Board, in
20 lieu of preceding pursuant to this Article, issue a citation to such licensee. Each citation shall be in writing
21 and shall describe with particularity the nature of the violation, including a reference to the provision of
22 this Act alleged to have been violated. In addition, each citation may contain an order of correction fixing
23 a reasonable time for correction of the violation and may contain an assessment of a civil penalty as
24 defined in Section 9.

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.

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- 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 maintain 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.

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

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

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

“§3105. Board of Professional Licensing: Duties.

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

- (a) Architects;
- (b) Engineers;
- (c) Surveyors;
- (d) Ship’s Officers;
- (e) Barbers and Beauticians;
- (f) Other professions or trades which are not exempted by Section

3107 or as may be provided by law.”

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

“§3107. Board of Professional Licensing: Exemptions.

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

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

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

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

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

10
 11 Section 11. Effective Date. This Act shall take effect upon its approval by the Governor or
 12 upon its becoming law without such approval.

Date: _____

Introduced By: Sen. Paul A. Mangione