

TITLE 4: ECONOMIC RESOURCES
DIVISION 5: BUSINESS REGULATION

§ 5612. Authority to Make Inquiry.

(a) The Secretary of Finance is authorized to enter the premises of any establishment conducting business within the CNMI to make any inquiry into the establishment's compliance with the business licensing requirements under this chapter.

(b) The authority given to enter the premises under subsection (a) of this section shall be carried out during normal business hours. If the secretary finds it is not practical to perform its duties during normal working hours, the action authorized under subsection (a) of this section may be carried out at any reasonable hour as determined by the secretary.

Source: PL 11-73, § 5, modified.

Commission Comment: PL 11-73, which created 4 CMC §§ 5612, 5613, and 5614 of this article took effect on March 19, 1999. PL 11-73 contained short title, findings and purpose, transfer of full-time equivalents, severability and savings clauses as follows:

Section 1. Short Title. This Act shall be referred to as the "Business Licensing Processing Act of 1998".

Section 2. Findings and Purpose. Tax compliance has long been a challenge in the CNMI, due to a lack of central control and sharing of data between various entities. A great deal of inconsistencies will be resolved by centralizing the issuance of business licenses with the agency which issues CNMI Tax Identification Numbers. Such issues that will be resolved include, but are not limited to the following: detecting non-filers of tax returns; ascertaining whether taxes have been paid prior to the issuance of a renewal of business license; allowing the Department of Finance to close down a business if taxes are not paid, or using the same as a deterrent for avoiding payment of taxes; allowing the Department of Finance to verify that a business is engaged in the activity stated on the license by comparing it to the activity stated on the tax return; and assuring that a business which imports goods for sale has an active business license and all taxes have been paid before allowing importation of goods into the CNMI.

By allowing the Department of Finance, Division of Revenue and Taxation to issue a business license and at the same time issue the CNMI Taxpayer Identification Number, there will be a tracking mechanism established that will not only serve the Division of Revenue and Taxation, as the point of control, but the Division of Customs and the Department of Commerce as well. The integration of issuing business licenses into the Division of Revenue and Taxation is expected to result in collection of a significant amount of additional taxes that are not collected due to the lack of a single control point. This should provide the CNMI with much needed revenue without the need to raise taxes at this point in time.

If it is therefore the purpose of this legislation to transfer the function of issuing business licenses from the Department of Commerce to the Department of Finance in order to strengthen the Department of Finance's

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efforts to enforce tax compliance. The day-to-day function of issuing licenses within the Department of Finance shall be handled by the Division of Revenue and Taxation.

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Section 11. Transfer of Full-time Equivalents. The Department of Commerce shall transfer two full-time equivalents (FTE) and the associated personnel funding as authorized by P.L. 11-41 to the Department of Finance for the purposes of administering the issuance of business licenses as agreed by the respective Secretaries.

Section 12. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 13. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.