

**ELEVENTH NORTHERN MARIANAS  
COMMONWEALTH LEGISLATURE**

*PUBLIC LAW NO. 11-73*  
**SENATE BILL**  
**NO. 11-96**

**THIRD REGULAR SESSION, 1999**

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**AN ACT**

To transfer the function of business licensing from the Department of Commerce to the Department of Finance and for other purposes.

**BE IT ENACTED BY THE ELEVENTH NORTHERN MARIANAS  
COMMONWEALTH LEGISLATURE:**

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.

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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 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 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.

Section 3. Amendment. Department of Finance: Duties and Responsibilities. 1 CMC section 2553 is hereby amended to add new subsections (l) and (m) to read:

“(l) To license businesses pursuant to 4 CMC § 5611. Except as otherwise provided by law, the Department of Finance shall not issue or cause to be issued any business license for the purpose of garment manufacturing. The Department, as a condition of issuing a business license or renewal thereof, may require proof of a tax clearance from the Division of Revenue and Taxation. The Department may disclose the contents of the business license application to the public, however, it shall not disclose “return” or “return information” as that term is defined in the Northern Mariana Territorial Income Tax (NMTIT) code section 6103. The Secretary of Finance shall have

the authority to promulgate rules and regulations for the purpose of carrying out this provision.”

(m) To suspend, revoke or deny the issuance of business licenses in accordance with the Administrative Procedure Act (1 CMC § 9101 et. seq.) due to non-compliance with CNMI laws, including, but not limited to the reporting and payment of taxes. The Secretary of Finance shall have the authority to promulgate rules and regulations for the purpose of carrying out this provision.”

Section 4. Amendment. Business License Fees. 4 CMC section 5611 as amended by P.L. 11-29 is hereby amended to read:

“(a) Business License Required. Before engaging in or continuing in a business, a person shall first obtain from the Secretary of the Department of Finance a license to engage in or conduct that business.

(b) In no event shall a business be required to purchase more than one general business license for the same line of business for any location or locations in the Commonwealth.

(c) Terms. Licenses issued under this section are valid for one year and are not transferable.

(d) Fees. The following annual fees shall be paid to the Secretary of the Department of Finance for the respective license at the time of issuance or renewal:

- (1) Banks, \$500;
- (2) Offshore banking corporations, \$1,000;
- (3) Securities dealers, \$300;
- (4) Insurance companies, \$300;

- (5) Insurance brokers, \$100;
- (6) Insurance agents, \$75;
- (7) Public utilities, \$300;
- (8) Manufacturers, \$50;
- (9) Wholesalers, \$50;
- (10) Roadside vendors selling local agricultural and fishery products, \$5;
- (11) Scuba instruction and scuba diving tour operations, \$100;
- (12) General business license covering all other businesses unless otherwise provided by this act, \$50, per separate line of business.

(e) Renewal. A licensee may renew a license upon its expiration by the payment of the annual license fee.

(f) All businesses licensed under this section shall only do business under the name duly licensed and shall advertise this name in romanized lettering in addition to any other lettering.

(g) Conditions for Revocation or Suspension.

(1) The Secretary of the Department of Finance may revoke or suspend any license issued under this section upon finding after two weeks public notice and a hearing conducted pursuant to 1 CMC §§ 9108-9111 that:

(i) The application of the licensee contained false or fraudulent information;

(ii) The licensee bribed or otherwise unlawfully influenced any person to issue the permit other than on the merits of the application;

(iii) The licensee presented false or fraudulent information to any person in support of his application;

(iv) The licensee violated subsection (f) of this section; or

(v) The licensee violated any provision of Commonwealth law, including but not limited to non-compliance with the tax laws, or any rule or regulation issued thereunder.

(2) Any person aggrieved by a license suspension or revocation shall be entitled to a review of the same by the Commonwealth Superior Court upon written appeal made within 30 days from the date the license suspension or revocation decision is issued. Such review shall be brought pursuant to 1 CMC §§ 9112 and 9113.

(h) Unless the Secretary of Finance provides otherwise, this section shall not effect public health or alcoholic beverage control licensing.”

Section 5. Authority to Make Inquiry. 4 CMC, Division 5, Chapter 6 is hereby amended to add a new section 5612 to read:

“§ 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) 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) may be carried out at any reasonable hour as determined by the Secretary.”

Section 6. Penalty for Violation of Business License Requirements.

4 CMC, Division 5, Chapter 6 is hereby amended to add a new section 5613 to read:

“§ 5613. Penalty for Violation of Business License Requirements.

(a) Any person found operating or engaging in a business to sell merchandise, goods, or commodities, or providing services for compensation without a valid business license shall be subject to a penalty of five hundred (\$500) dollars and upon written notice to a person under subsection (c) of this section, any continual violation shall subject the person to an additional penalty of one hundred (\$100) dollars per day for every additional day that the person is in violation of the business license provisions.

(b) The agency action provided for in subsection (a) of this section shall subject to Administrative Procedure Act, 1 CMC § 9101 et. seq.

(c) The Secretary is hereby granted authority to issue a cease and desist order to any person found in violation of the requirement to obtain a business license pursuant to 4 CM § 5611(a).

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Section 7. Regulations. 4 CMC, Division 5, Chapter 6 is hereby amended to add a new section 5614 to read:

“§ 5614. Regulations. The Secretary of Finance shall promulgate any necessary rules and regulations necessary to carry out the intent of this act as it relates to the duties conferred upon the Secretary of Finance.”

Section 8. Amendment. Definitions. 4 CMC § 5701 is hereby amended to read:

“For purposes of this chapter:

(a) ‘Business license’ means that license required to engage in or conduct business under 4 CMC § 5611.

(b) ‘Engaged in substantial construction or manufacturing’ means:

(1) That manufacturing of textiles or textile products has begun or will begin on or before the end of the fourth month following May 28, 1996; and

(2) The applicant provides evidence of the required working capital (cash) in an amount of not less than \$1,000,000 and proof of its deposit in a Commonwealth banking institution; and

(3) One of the following requirements:

(i) The applicant has executed a lease or leasehold agreement or otherwise acquired an interest evidenced in writing in real property within the Commonwealth for the purpose of erecting thereon a facility for the manufacture of textiles or textile products; or

(ii) The applicant has entered into a written contract(s) for the construction (including prefabrication) of a facility to be

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utilized for the manufacture of textiles or textile products on real property in the Commonwealth acquired for such purpose; or

(iii) The applicant has purchased or executed contract(s) for the purchase of necessary capital equipment designed for and typically employed in the manufacture of textiles or textile products; or

(iv) The applicant has recruited or caused by binding agreement to be recruited on its behalf at least 80 percent of non-immigrant alien workers skilled in the manufacture of textiles or textile products; or

(v) The applicant has made timely application to permitting authorities of the Commonwealth government (e.g., the Department of Environmental Quality, the Commonwealth Utilities Corporation, or the Coastal Resources Management Office) for any permits required by law to be issued as a condition for the operation of a garment factory evidenced by a Department of Finance receipt of payment of the applicable fees.

(c) ‘Garment manufacturer’ means any sole proprietorship, partnership, corporation, firm, association, or other group or combination engaged in the creation, production, or assembly of textiles or textile products for purposes of export.

(d) ‘Garment worker’ means any person whose job title is listed under the definition of garment industry in the Dictionary of Occupational Titles published by the U.S. Secretary of Labor.

(e) ‘Qualified garment manufacturer’ means a garment manufacturer engaged in manufacturing textiles or textile products.

(f) ‘Quota of a manufacturer’ means the number of non-immigrant alien garment workers allowed per garment manufacturer pursuant to regulations in effect prior to October 15, 1995.

(g) ‘Textiles or textile products’ includes all manmade fibers, tops, yarn, piece goods, made-up articles, garments, and other textile manufactured products which is made in whole or in part from any natural or manmade fiber, or blend thereof, that are classified under Part 6 of Schedule 3, Parts 1, 4, 5, 7 or 13 of Schedule 7, Part 1 of Schedule 8, or Part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. § 1202).”

Section 9. Amendment. Prohibition on Issuance of New Licenses. 4 CMC § 5702 is hereby amended to read:

“Except as otherwise provided in this chapter, the Department of Finance shall not issue or cause to be issued to any applicant a business license for the purpose of garment manufacturing.”

Section 10. Amendment. Restriction on Renewal of License. 4 CMC § 5703 is hereby amended to read:

“Notwithstanding any other provision of law, the Department of Finance shall not renew or cause to be renewed to any applicant a business license for the purpose of garment manufacturing unless the applicant is a qualified garment manufacturer and can show one of the following:

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(a) That the applicant held a valid business license for the purpose of garment manufacturing and was engaged in the manufacturing of textiles or textile products prior to January 1, 1995; or

(b) That the applicant was issued a valid business license for the purpose of garment manufacturing between January 1, 1995, and May 28, 1996, and that the applicant was engaged in substantial construction or manufacturing on May 28, 1996.

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.

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Section 14. Effective Date. This Act shall take effect upon its approval by the Governor or its becoming law without such approval.

**CERTIFIED BY:**

**ATTESTED TO BY:**

/s/ Paul A. Manglona  
PAUL A. MANGLONA  
PRESIDENT OF THE SENATE

/s/ Edward U. Maratita  
EDWARD U. MARATITA  
SENATE LEGISLATIVE SECRETARY

Approved this 19th day of March, 1999.

/s/ Pedro P. Tenorio  
PEDRO P. TENORIO  
GOVERNOR  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS