

THIRTEEN NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FIRST REGULAR SESSION, 2002

PUBLIC LAW NO. 13-52
H. B. NO. 13-002, HDI, SD1

AN ACT

To provide for the issuance of certificates as certified public accountants to regulate the practice of accountancy in the public interest; to establish a Board of Accountancy and prescribe its powers and duties, and for other purposes.

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

Section 1. Title. This Act may be cited as the “Accountancy Act of 2002”.

Section 2. ~~Purpose~~ Purpose The policy of the Commonwealth of the Northern Marianas Islands (CNMI) and the purpose of this Act, to promote the reliability of information that is used for guidance in financial transactions or for accounting for or assessing the financial status or performance of commercial, noncommercial, and governmental enterprises. The public interest requires that persons professing special competence in accountancy or offering assurance as to the reliability or fairness of presentation of such information shall have demonstrated their qualifications to do so, and that no persons who have not demonstrated and maintained such qualifications, including certificate holders not in public practice, be permitted to hold themselves out as having such special competence or to offer such assurance; that the professional conduct of persons licensed as having special competence in accountancy be regulated in all aspects of the practice of public accountancy; that a public authority competent to prescribe and assess the qualifications and to regulate the professional conduct of practitioners of public accountancy be established; and that the use of titles relating to the practice of public accountancy that are likely to mislead the public as to the status or competence of the persons using such titles be prohibited.

Section 3. Definitions. When used in this Act, the following terms have the meanings indicated:

(a) “Board” means the CNMI Board of Accountancy established under Section 4 of this Act.

(b) “Certificate” means a certificate as “certified public accountant” issued under Section 6 of this Act, or a corresponding certificate as certified public accountant issued after examination under the law of any other state.

(c) “Firm” means a sole proprietorship, a corporation, a partnership or any other form of organization.

(d) “License” means a certificate issued under Section 6 of this Act or a permit issued under Section 7.

(e) “Licensee” means the holder of a license as defined in Section 3(d).

(f) “Permit” means a permit to practice public accountancy issued under Section 7 of this Act or under corresponding provisions of the laws of other states.

(g) “Practice of (or practicing) public accountancy” means the performance or the offering to perform by a person or firm holding itself out to the public as a licensee, for a client or potential client, of one or more kinds of services involving the use of accounting or auditing skills, including the issuance of reports on financial statements, or of one or kinds of management advisory, financial advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters.

(h) “Quality Review” means a study, appraisal, or review of one or more aspects of the professional work of a person or firm in the practice of public accountancy, by a person or persons who hold certificates and who are not affiliated with the person or firm being reviewed.

(i) “Report”, when used with reference to financial statements, means an opinion, report, or other form of language that states or implies assurance as to the reliability of any financial statement and that also includes or is accompanied by any

statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself. The term “report” includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to and/or special competence on the part of the person or firm issuing such language; and it includes any other form of language that is conventionally understood to imply such assurance and/or such special knowledge or competence.

(j) “Rule” means any rule, regulation, or other written directive of general application duly adopted by the Board.

(k) “State” means any State of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam.

Section 4. CNMI Board of Accountancy.

(a) There is hereby created the CNMI Board of Accountancy, which shall have responsibility for the administration and enforcement of this Act. The Board shall consist of five members, appointed by the Governor, all of whom shall be residents of the CNMI. All of such members shall be holders of currently valid certificates issued under Section 6 of this Act (except that original Board members will be holders of a certificate as certified public accountants issued after examination under the law of any other state) the majority of whom are practicing public accountancy. The term of each member of the Board shall be four years; except that, of the members first to be appointed, two shall hold office for one year, two for two years, and one for three years from the effective date of this Act, the term of each to be designated by the Governor. Vacancies occurring during a term shall be filled by appointment by the Governor for the unexpired term. Board members have a duty to maintain their status as holders of certificates under Section 6 of this Act.

(b) The Board shall elect annually from among its members a chairman and such other officers as the Board may determine to be appropriate. The Board shall meet at such times and places as may be fixed by the Board. Meetings of the Board shall be open to the public except in so far as they are concerned with investigations under Section 10 of this Act and except as may be necessary to protect information that is required to be kept confidential by Board rules or by the laws of the CNMI. A majority of the Board members then in office shall constitute a quorum at any meeting duly called. The Board shall have a seal that shall be judicially noticed. The Board shall retain or arrange for the retention-of all applications and all documents under oath that are filed with the Board and also records of its proceedings, and it shall maintain a registry of the names and addresses of all licensees under this Act. In any proceeding in court, civil or criminal, arising out of or founded upon any provision of this Act, copies of any of said records certified as true copies under the seal of the Board shall be admissible in evidence as tending to prove the contents of said records.

(c) Each member of the Board shall be reimbursed for the member's actual and necessary expenses incurred in the discharge of the member's official duties.

(d) All moneys collected by the Board from fees authorized to be charged by this Act shall be received and accounted for by the Board and shall be deposited in the CNMI General Fund to the credit of the Board. Appropriation shall be made for the expenses of administering the provisions of this Act, which may include, but shall not be limited to, the costs of conducting investigations and of taking testimony and procuring the attendance of witnesses before the Board or its committees; all legal proceedings taken under this Act for the enforcement thereof; and educational programs for the benefit of the public and licensees and their employees.

(e) The Board shall file an annual report of its activities with the Governor and the legislature, which report shall include a statement of all receipts and disbursements and a listing of all current licensees under this Act. The Board shall

mail a copy of the annual report to any person requesting it and paying a reasonable charge therefor.

(f) The Board may employ an executive director who must be a hold a certificate as defined in Section 3 (b) this Act and such other personnel as it deems necessary in its administration and enforcement of this Act. It may appoint such committees or persons, to advise or assist it in such administration and enforcement, as it may see lit. It may retain its own counsel to advise and assist it in addition to such advice and assistance as is provided by the Attorney General of the CNMI.

(g) The Board shall have the power to take all action that is necessary and proper to effectuate the purposes of this Act, including the power to sue and be sued in its official name as an agency of the CNMI; to issue subpoenas to compel the attendance of witnesses and the production of documents; to administer oaths; to take testimony and to receive evidence concerning all matters within its jurisdiction. In case of disobedience of a subpoena, the Board may invoke the aid of any court of the CNMI in requiring the attendance and testimony of witnesses and the production of documentary evidence. The Board, its members, and its agents shall be immune from personal liability for actions taken in good faith in the discharge of the Board's responsibilities, and the CNMI shall hold the Board, its members, and its agents harmless from all costs, damages, and attorneys' fees arising from claims and suits against them with respect to matters to which such immunity applies.

(h) The Board may adopt by regulation rules governing its administration and enforcement of this Act and the conduct of licensees, including but not limited to:

- (1) Rules governing the Board's meetings and the conduct of its business;
- (2) Rules of procedure governing the conduct of investigations and hearings by the Board;
- (3) Rules specifying the educational and experience qualifications required for the issuance of certificates under Section 6 of this Act and the

continuing professional education required for renewal of certificates under Section 6;

(4) Rules of professional conduct directed to controlling the quality and probity of the practice of public accountancy by licensees, and dealing among other things with independence, integrity, and objectivity; competence and technical standards; responsibilities to the public; and responsibilities to clients;

(5) Rules specifying actions and circumstance that shall be deemed to constitute holding oneself out as a licensee in connection with practice of public accountancy within the meaning of Section 3(g);

(6) Rules governing the manner and circumstances of use of the titles “certified public accountant” and “CPA”;

(7) Rules regarding quality reviews that may be required to be performed under provisions of this Act; and

(8) Such other rules as the Board may deem necessary or appropriate for implementing the provisions and the purposes of this Act.

(i) The Administrative Procedure Act (1 CMC § 9101 et seq.) shall govern the publication of all rules and regulations adopted under subsection (h) of this Section or any other provision of this Act.

Section 5. Qualifications for a Certificate as a Certified Public Accountant.

(a) The certificate of “certified public accountant” shall be granted to persons of good character who meet the education, experience and examination requirements of the following subsections of this Section and who make application therefor pursuant to Section 6 of this Act.

(b) Good character for purposes of this Section means lack of a history of dishonest or felonious acts. The Board may refuse to grant a certificate on the ground of failure to satisfy this requirement only if there is a substantial connection between the lack of good character of the applicant and the professional responsibilities of a

licensee and if the finding by the Board of lack of good character is supported by clear and convincing evidence. When an applicant is found to be unqualified for a certificate because of a lack of good character, the Board shall furnish the applicant a statement containing the findings of the Board, a complete record of the evidence upon which the determination was based, and a notice of the applicant's right of appeal.

(c) The education requirement for a certificate, which must be met before an applicant is eligible to apply for the examination prescribed in subsection(d), shall be as follows:

(1) During the four-year period immediately following the effective date of this Act, a baccalaureate degree or its equivalent conferred by a college or university acceptable to the Board, with an accounting concentration or equivalent as determined by Board rule to be appropriate;

(2) After the expiration of the four-year period immediately following the effective date of this Act, at least 150 semester hours of college education including a baccalaureate or higher degree conferred by a college or university acceptable to the Board, the total educational program to include an accounting concentration or equivalent as determined by Board rule to be appropriate.

(d) The examination required to be passed as a condition for the granting of a certificate shall be in writing, shall be held twice a year, and shall test the applicant's knowledge of the subjects of accounting and auditing, and such other related subjects as the Board may specify by rule. The time for holding such examination shall be fixed by the Board and may be changed from time to time. The Board shall prescribe by rule the methods of applying for and conducting the examination, including methods for grading papers and determining a passing grade required of an applicant for a certificate provided, however, that the Board shall to the extent possible see to it that the grading of the examination, and the passing grades,

are uniform with those applicable in all other states. The Board may make such use of all or any part of the Uniform Certified Public Accountant Examination and Advisory Grading Service of the American Institute of Certified Public Accountants and may contract with third parties to perform such administrative services with respect to the examination as it deems appropriate to assist it in performing its duties hereunder.

(e) An applicant shall be required to pass all sections of the examination provided for in subsection (d) in order to qualify for a certificate. A passing grade for each section shall be 75. If at a given sitting of the examination an applicant passes two or more but not all sections, then the applicant shall be given credit for those sections that the applicant has passed and need not sit for reexamination in those sections, provided that:

(1) at that sitting the applicant wrote all sections of the examination for which the applicant does not have credit;

(2) the applicant attained a minimum grade of 50 on each section taken at that sitting;

(3) the applicant passes the remaining sections of the examination within six consecutive examinations given after the one at which the first sections were passed;

(4) at each subsequent sitting at which the applicant seeks to pass any additional sections, the applicant writes all sections for which the applicant does not have credit; and

(5) in order to receive credit for passing additional sections in any such subsequent sitting, the applicant attains a minimum grade of 50 on each section taken at that sitting, in addition to the required 75 grade for each section passed.

(f) An applicant shall be given credit for any and all sections of an examination passed in another state if such credit would have been given, under then applicable requirements, if the applicant had taken the examination in the CNMI.

(g) The Board may in particular cases waive or defer any of the requirements of subsections (e) and (f) regarding the circumstances in which the various sections of the examination must be passed, upon a showing that, by reason of circumstances beyond the applicant's control, the applicant was unable to meet such requirement.

(h) The Board may charge, or provide for a third party administering the examination to charge each applicant a fee, in an amount prescribed by the Board by rule, for each section of the examination or reexamination taken by the applicant.

(i) An applicant for initial issuance of a certificate under this Section shall show that the applicant has had two years of experience, providing one or more kinds of services involving the use of accounting or auditing skills, including the issuance of reports on financial statements, or one or more kinds of management advisory, financial advisory, or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters, or the equivalent, all of which was under the direction of a licensee or a person licensed within another state, meeting requirements prescribed by the Board by rule.

Section 6. Issuance and Renewal of Certificates.

(a) The Board shall grant or renew certificates to persons who make application and demonstrate that their qualifications, including where applicable the qualifications prescribed by Section 5, are in accordance with the following subsections of this Section. The holder of a certificate issued under this Section may only practice public accountancy in a firm that holds a permit issued under Section 7 of this Act.

(b) Certificates shall be initially issued, and renewed, for periods of not more than three years but in any event shall expire on the third year following issuance or renewal. Applications for such certificates shall be made in such form, and in the case of applications for renewal, between such dates, as the Board shall by rule specify, and the Board shall grant or deny any such application no later than 60

days after the application is filed in proper form. In any case where the applicant seeks the opportunity to show that issuance or renewal of a certificate was mistakenly denied, or where the Board is not able to determine whether it should be granted or denied, the Board may issue to the applicant a provisional certificate, which shall expire ninety days after its issuance or when the Board determines whether or not to issue or renew the certificate for which application was made, whichever shall first occur.

(c) The Board shall issue a certificate to a holder of a certificate, license, or permit issued by another state upon a showing that:

(1) The applicant passed the examination required for issuance of the applicant's certificate with grades that would have been passing grades in accordance with Section 5 of the Act.

(2) The applicant:

(A) meets all current requirements in the CNMI for issuance of a certificate at the time application is made; or

(B) at the time of the issuance of the applicant's certificate in the other state, met all such requirements applicable in this Act; or

(C) had five years of experience outside of the CNMI in the practice of public accountancy or meets equivalent requirements prescribed by the Board by rule, after passing the examination upon which the applicant's certificate was based and within the ten years immediately preceding the application;

(3) The applicant has had experience in the practice of public accountancy meeting the requirements of Section 5(i); and

(4) If the applicant's certificate, license, or permit was issued more than four years prior to the application for issuance of an initial certificate under this Section, the applicant has fulfilled the requirements of continuing

professional education that would have been applicable under subsection (d) of this Section.

(d) For renewal of a certificate under this Section an applicant shall show that the applicant has completed 120 hours of continuing professional education which contribute to the general professional competence of the applicant during a three-year period with a minimum of twenty hours each year. The Board may prescribe by rule the content, duration and organization of continuing professional education courses that qualify for this requirement. The Board may also provide by rule for prorated continuing professional education requirements to be met by applicants whose initial certificates were issued substantially less than three years prior to the renewal date, and it may prescribe by rule special lesser requirements to be met by applicants for certificates renewal whose prior certificates lapsed substantially prior to their applications for renewal, and regarding whom it would in consequence be inequitable to require a full compliance with all requirements of continuing professional education that would otherwise have been applicable to the period of lapse.

(e) The Board shall charge a fee for each application for initial issuance or renewal of a certificate under this Section in an amount prescribed by the Board by rule.

(f) Applicants for initial issuance or renewal of certificates under this Section shall in their applications list all states in which they have applied for or hold certificates, licenses, or permits, and each holder of or applicant for a certificate under this Section shall notify the Board in writing, within 30 days after its occurrence, of any issuance, denial, renovation, or suspension of a certificate, license or permit by another state.

(g) The Board shall issue a certificate to a holder of a foreign designation, granted in a foreign country entitling the holder thereof to engage in the practice of public accountancy, provided that:

(1) The foreign authority which granted the designation makes similar provision to allow a person who holds a valid certificate issued by the CNMI to obtain such foreign authority's comparable designation; and

(2) The foreign designation

(A) was duly issued by a foreign authority that regulates the practice of public accountancy and the foreign designation has not expired or been revoked or suspended;

(B) entitles the holder to issue reports upon financial statements; and

(C) was issued upon the basis of educational, examination, and experience requirements established by the foreign authority or by law; and

(3) The applicant:

(A) received the designation, based on educational and examination standards substantially equivalent to those required by this Act, at the time the foreign designation was granted;

(B) completed an experience requirement, substantially equivalent to the requirement set out in Section 5(i), in the jurisdiction which granted the foreign designation or has completed five years of experience in the practice of public accountancy in the CNMI or meets equivalent requirements prescribed by the Board by rule, within the ten years immediately preceding the application; and

(C) passed a uniform qualifying examination in national standards (and an examination on the laws, regulations and code of ethical conduct in effect in this Territory) acceptable to the Board.

(h) An applicant under subsection (g) shall in the application list all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public accountancy, and each holder of a certificate issued

under this subsection shall notify the Board in writing, within thirty days after its occurrence, of any issuance, denial, revocation or suspension of a designation or commencement of a disciplinary or enforcement action by any jurisdiction.

(i) The Board has the sole authority to interpret the application of the provisions of subsection (g) and (h).

Section 7. Firm Permits to Practice.

(a) The Board shall grant or renew permits to practice public accountancy to firms that make application and demonstrate their qualifications therefore in accordance with the following subsections of this Section. A firm must hold a permit issued under this Section in order to practice public accountancy.

(b) Permits shall be initially issued and renewed for periods of not more than three years but in any event shall expire on the third year following issuance or renewal. Applications for permits shall be made in such form, and in the case of applications for renewal, between such dates as the Board may by rule specify, and the Board shall grant or deny any such application no later than 60 days after the application is filed in proper form. In any case where the applicant seeks the opportunity to show that issuance or renewal of a permit was mistakenly denied or where the Board is not able to determine whether it should be granted or denied, the Board may issue to the applicant a provisional permit, which shall expire ninety days after its issuance or when the Board determines whether or not to issue or renew the permit for which application was made, whichever shall first occur.

(c) An applicant for initial issuance or renewal of a permit to practice under this Section shall be required to show that each sole proprietor, partner, officer, shareholder, member or manager who regularly works in the CNMI, holds a valid certificate issued under Section 6 of this Act and that each other partner, officer, shareholder, member or manager holds a certificate and is licensed to practice public accountancy in another state.

(4) An applicant for initial issuance or renewal of a permit to practice under this Section shall be required to register each office of the firm within the CNMI with the Board and to show that each such office is under the charge of a person holding a valid certificate issued under Section 6 of this Act.

(e) The Board shall charge a fee for each application for initial issuance or renewal of a permit under this Section in an amount prescribed by the Board by rule.

(f) Applicants for initial issuance or renewal of permits under this Section shall in their application list all states in which they have applied for or hold permits to practice public accountancy, and each holder of or applicant for a permit under Section shall notify the Board in writing, within 30 days after its occurrence, of any change in the identities of partners, officers, shareholders, members or managers who work regularly within the CNMI, any change in the number or location of offices within the CNMI, any change in the identity of the persons in charge of such offices, and any issuance, denial, revocation, or suspension of a permit by any other state.

(g) The Board may by rule require, on either a uniform or a random basis, as a condition to renewal of permits under this Section, that applicants undergo, no more frequently than once every three years, quality reviews conducted in such manner as the Board may specify, provided, however, that any such rule:

(1) shall be promulgated reasonably in advance of the time when it first becomes effective;

(2) shall include reasonable provision for compliance by an applicant showing that it has, within the preceding three years, undergone a quality review that is the satisfactory equivalent to quality review generally required pursuant to this subsection (g);

(3) shall require, with respect to quality reviews contemplated by paragraph (2), that they be subject to oversight by an oversight body established or sanctioned by Board rule, which body shall periodically report to the Board on the effectiveness of the review program under its charge, and

provide to the Board a listing of firms that have participated in a quality review program that is satisfactory to the Board; and

(4) shall require, with respect to quality reviews contemplated by paragraph (2), that the quality review processes be operated and documents maintained in a manner designed to preserve confidentiality, and that neither the Board nor any third party (other than the oversight body) shall have access to documents furnished or generated in the course of the review.

Section 8. Appointment of Secretary of Commerce as Agent. Application by a person or a firm not a resident of the CNMI for a certificate under Section 6 of this Act or a permit to practice under Section 7 shall constitute appointment of the Secretary of Commerce as the applicant's agent upon whom process may be served in any action or proceeding against the applicant arising out of any transaction or operation connected with or incidental to the practice of public accountancy by the applicant within the CNMI.

Section 9. Enforcement Against Holders of Certificates, Permits, and Registrations.

(a) After notice and hearing pursuant to Section 11 of this Act, the Board may revoke any certificate, permit, or registration issued under Sections 6 or 7 of this Act, suspend any such certificate, permit, or registration or refuse to renew any such certificate, permit, or registration for a period of not more than five years; reprimand, censure, or limit the scope of practice of any licensee; impose an administrative fine not exceeding \$1,000, or place any licensee on probation, all with or without terms, conditions, and limitations, for any one or more of the following reasons;

- (1) Fraud or deceit in obtaining a certificate, permit or registration;
- (2) Cancellation, revocation, suspension or refusal to renew authority to engage in the practice of public accountancy in any other state for any cause;
- (3) Failure, on the part of a holder of a certificate or permit under Sections 6 or 7, to maintain compliance with the requirements for issuance or

renewal of such certificate, permit or registration or to report changes to the Board under Section 6 (f) or 7 (f);

(4) Revocation or suspension of the right to practice before any state or federal agency;

(5) Dishonesty, fraud, or gross negligence in the practice of public accountancy or in the filing or failure to file the licensee's own income tax returns;

(6) Violations of any provision of this Act or rule promulgated by the Board under this Act;

(7) Violations of any of professional conduct promulgated by the Board under Section 4(h)(4) of this Act;

(8) Conviction of a felony, or of any crime an element of which is dishonesty or fraud, under the laws of the United States, of the CNMI, or of any other state if the acts involved would have constituted a crime under the laws of the CNMI;

(9) Performance of any fraudulent act while holding a certificate or permit issued under this Act or prior law; and

(10) Any conduct reflecting adversely upon the licensee's fitness to engage in the practice of public accountancy.

(b) In lieu of or in addition to any remedy specifically provided in subsection (a) of this Section, the Board may require of a licensee:

(1) A quality review conducted in such fashion as the Board may specify; and/or

(2) Satisfactory completion of such continuing professional education programs as the Board may specify.

(c) In any proceeding in which a remedy provided by subsections (a) or (b) of this Section is imposed, the Board may also require the respondent licensee to pay the costs of the proceeding.

Section 10. Enforcement Procedures Investigations.

(a) The Board may, upon receipt of a complaint or other information suggesting violations of this Act or of the rules of the Board, conduct investigations to determine whether there is probable cause to institute proceedings under Sections 11, 14, or 15 of this Act against any person or firm for such violation, but an investigation under this Section shall not be a prerequisite to such proceedings in the event that a determination of probable cause can be made without investigation. In aid of such investigations, the Board or the chairperson thereof may issue subpoenas to compel witnesses to testify and/or to produce evidence.

(b) The Board may designate a member, or any other person of appropriate competence, to serve as investigating officer to conduct an investigation. Upon completion of an investigation, the investigating officer shall file a report with the Board. The Board shall find probable cause or lack of probable cause upon the basis of the report or shall return the report to the investigating officer for further investigation. Unless there has been a determination of probable cause, the report of the investigating officer, the complaint, if any. The testimony and documents submitted in support of the complaint or gathered in the investigation, and the fact of pendency of the investigation shall be treated as confidential information and shall not be disclosed to any person except law enforcement authorities and, to the extent deemed necessary in order to conduct the investigation, the subject of the investigation, persons whose complaints are being investigated, and witnesses questioned in the course of the investigation. This confidentiality requirement relating to investigations shall apply notwithstanding any provision of the Open Government Act (1 CMC § 9901 et seq.) or other Commonwealth law to the contrary.

(c) Upon a finding of probable cause, if the subject of the investigation is a licensee, the Board shall direct that a complaint be issued under Section 11 of this Act, and if the subject of the investigation is not a licensee, the Board shall take appropriate action under Sections 14 and 15 of this Act. Upon a finding of no

probable cause, the Board shall close the matter and shall thereafter release information relating thereto only with the consent of the person or firm under investigation.

(d) The Board may review the publicly available professional work of licensees on a general and random basis, without any requirement of a formal complaint or suspicion of impropriety on the part of any particular licensee. In the event that as a result of such review the Board discovers reasonable grounds for a more specific investigation, the Board may proceed under subsections (a) through (c) of this Section.

Section 11. Enforcement Procedures- Hearings by the Board.

(a) In any case where probable cause with respect to a violation by a licensee has been determined by the Board, whether following an investigation under Section 10 of this Act, or upon receipt of a written complaint furnishing grounds for a determination of such probable cause, or upon receipt of notice of a decision by the Board of Accountancy of another state furnishing such grounds, the Board shall issue a complaint setting forth appropriate charges and set a date for hearing before the Board on such charges. The Board shall, not less than 30 days prior to the date of the hearing, serve a copy of the complaint and notice of the time and place of the hearing upon the licensee, together with a copy of the Board's rules governing proceedings under this Section, either by personal delivery or by mailing a copy thereof by registered mail to the licensee at the licensee's address last known to the Board.

(b) A licensee against whom a complaint has been, issued under this Section shall have the right, reasonably in advance of the hearing, to examine and copy the report of investigation, if any, and any documentary or testimonial evidence and summaries of anticipated evidence in the Board's possession relating to the subject matter of the complaint. The Board's rules governing proceedings under this Section shall specify the manner in which such right may be exercised.

(c) In a hearing under this Section the respondent licensee may appear in person (or, in the case of a firm, through a partner, officer, director, shareholder, member or manager) and/or by counsel, examine witnesses and evidence presented in support of the complaint, and present evidence and witnesses on the licensee's own behalf. The licensee shall be entitled, on application to the Board, to the issuance of subpoenas to compel the attendance of witnesses and the production of documentary evidence.

(d) The evidence supporting the complaint shall be presented by the investigating officer, by a Board member designated for that purpose, or by counsel. A Board member who presents the evidence, or who has conducted the investigation of the matter under Section 10 of this Act, shall not participate in the Board's decision of the matter.

(e) In a hearing under this Section the Board shall be advised by counsel, who shall not be the same counsel who presents or assists in presenting the evidence supporting the complaint under subsection (d) of this Section.

(f) In a hearing under this Section the Board shall not be bound by technical rules of evidence.

(g) In a hearing under this Section a stenographic or electronic record shall be made and filed with the Board. A transcript need not be prepared unless review is sought under subsection(j) of this Section or the Board determines that there is other good cause for its preparation.

(h) In a hearing under this Section a recorded vote of a majority of all members of the Board then in office (excluding members disqualified by reason of subsection (d) of this Section) shall be required to sustain any charge and to impose any penalty with respect thereto.

(i) If, after service of a complaint and notice of hearing as provided in subsection (a) of this Section, the respondent licensee fails to appear at the hearing, the Board may proceed to hear evidence against the licensee and may enter such order

as it deems warranted by the evidence, which order shall be final unless the licensee petitions for review thereof under subsection (j) of this Section, provided, however, that within thirty days from the date of any such order, upon a showing of good cause for the licensee's failure to appear and defend, the Board may set aside the order and schedule a new hearing on the complaint, to be conducted in accordance with applicable subsections of this Section.

(j) Any person or firm adversely affected by any order of the Board entered after a hearing under this Section may seek judicial review thereof pursuant to procedures set forth in the Administrative Procedures Act (1 CMC § 9101 et seq.)

(k) In any case where the Board renders a decision imposing discipline against a licensee under this Section and Section 9 of this Act, the Board shall examine its records to determine whether the licensee holds a certificate or a permit to practice public accountancy in any other state; and if so, the Board shall notify the Board of Accountancy of such other state of its decision, by mail, within forty-five days of rendering the decision. The Board may also furnish information relating to proceedings resulting in disciplinary action to other public authorities and to private professional organizations having a disciplinary interest in the licensee. Where a petition for review has been filed pursuant to Section 1 l(j), the notification and furnishing of information provided for in this subsection shall await the resolution of such review and, if resolution is in favor of the licensee, no such notification or furnishing of information shall be made.

Section 12. Reinstatement.

(a) In any case where the Board has suspended or revoked a certificate or a permit or registration or refused to renew a certificate, permit, or registration, the Board may, upon application in writing by the person or firm affected and for good cause shown, modify the suspension, or reissue the certificate, permit, or registration.

(b) The Board shall by rule specify the manner in which such applications shall be made, the times within they shall be made, and the circumstances in which hearings will be held thereon.

(c) Before reissuing, or terminating the suspension of, a certificate, permit or registration under this Section, and as a condition thereto, the Board may require the applicant therefor to show successful completion of specified continuing professional education; and the Board may make the reinstatement of a certificate, permit or registration conditional and subject to satisfactory completion of a quality review conducted in such fashion as the Board may specify.

Section 13. Unlawful Acts.

(a) No person or firm not holding a valid certificate, permit or registration issued under Sections 6 or 7 of this Act shall issue a report on financial statements of any other person, firm, organization, or governmental unit. This prohibition does not apply to an officer, partner, member, manager or employee of any firm or organization affixing that person's own signature to any statement or report in reference to the financial affairs of such firm or organization with any wording designating the position, title, or office that the person holds therein; nor prohibit any act of a public official or employee in the performance of that person's duties as such; nor prohibit the performance by any person of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports thereon.

(b) The prohibition contained in subsection (a) of this Section is applicable to issuance, by a person not holding a valid certificate, or registration or a firm not holding a valid permit, of a report using any form of language conventionally used by licensees respecting a review of financial statements.

(c) The prohibition contained in subsection (a) of this Section is applicable to issuance, by a person not holding a valid certificate or registration or a firm not

holding a valid permit, of a report using any from of language conventionally used by licensees with respect to a compilation of financial statements.

(d) No person not holding a valid certificate shall use or assume the title or designation “certified public accountant”, or the abbreviation “CPA” or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant.

(e) No firm shall practice public accountancy or assume or use the title or designation “certified public accountant”, or the abbreviation “CPA”, or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such firm is composed of certified public accountants, unless (1) the firm holds a valid permit issued under Section 7 of this Act, and (2) all partners, officers, members, managers and shareholders of the firm hold certificates.

(f) No person or firm not holding a valid certificate, permit or registration issued under Sections 6 or 7 of this Act shall assume or use the title or designation “certified accountant”, “chartered accountant”, “enrolled accountant”, “licensed accountant”, “registered accountant”, “accredited accountant”, or any other title or designation likely to be confused with the titles “certified public accountant”, or use any of the abbreviations “CA”, “LA”, “RA”, “AA”, or similar abbreviation likely to be confused with the abbreviation “CPA”. The title “Enrolled Agent” or “EA” may only be used by individuals so designated by the Internal Revenue Service.

(g) No person or firm not holding a valid certificate, permit or registration issued under Section 6 or 7 of this Act shall assume or use any title or designation that includes the words “accountant”, “auditor”, or “accounting”, in connection with any other language (including the language of a report) that implies that such person or firm holds such a certificate, permit, or registration or has special competence as an accountant or auditor, provided, however, that this subsection does not prohibit any officer, partner, member, manager or employee of any firm or organization from affixing that person’s own signature to any statement in reference to the financial

affairs of such firm or organization with any wording designating the position, title, or office that the person holds therein nor prohibit any act of a public official or employee in the performance of the person's duties as such.

(h) No person holding a certificate or registration or firm holding a permit under this Act shall engage in the practice of public accountancy using a professional or firm name or designation that is misleading about the legal form of the firm, or about the person's who are partners, officer, members, managers or shareholders of the firm, or about any other matter, provided, however, that names of one or more former partners, members, managers or shareholders may be included in the name of a firm or its successor.

(i) None of the foregoing provisions of this Section shall have any application to a person or firm holding a certification, designation, degree, or license granted in a foreign country entitling the holder thereof to engage in the practice of public accountancy or its equivalent in such country, whose activities in the CNMI are limited to the provision of professional services to persons or firms who are residents of, governments of, or business entities of the country in which the persons holds such entitlement, who issues no reports with respect to the financial statements of any other persons, firm, or government units in the CNMI, and who does not use in the CNMI any title or designation other than the one under which the person practices in such country, followed by a translation of such title or designation into the English language, if it is in a different language, and by the name of such country.

(j) No holder of a certificate issued under Section 6 of this Act shall practice public accountancy in any firm that does not hold a valid permit issued under Section 7 of this Act.

(k) Nothing herein shall prohibit a practicing attorney or firm of attorneys from preparing or presenting records or documents customarily prepared by an attorney or firm of attorneys in connection with the attorney's professional work in the practice of law.

Section 14. Injunctions Against Unlawful Acts. Whenever, as a result of an investigation under Section 10 of this Act or otherwise, the Board believes that any person or firm has engaged, or is about to engage, in any acts or practices which constitute or will constitute a violation of Section 13 of this Act, the Board may make application to the appropriate court for an order enjoining such acts or practices, and upon a showing by the Board that such person or firm has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or other order as may be appropriate shall be granted by such court.

Section 15. Criminal Penalties.

(a) Whenever, by reason of an investigation under Section 10 of this Act or otherwise, the Board has reason to believe that any person or firm has knowingly engaged in acts or practices that constitute a violation of Section 13 of this Act, the Board may bring its information to the attention of the Attorney General of the CNMI (or other appropriate law enforcement officer) who may, in the officer's discretion, cause appropriate criminal proceedings to be brought thereon.

(b) Any person or firm who knowingly violates any provision of Section 13 of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not more than \$10,000 or to imprisonment for not more than one year, or to both such fine and imprisonment.

Section 16. Single Act Evidence of Practice. In any action brought under Sections 11, 14, or 15 of this Act, evidence of the commission of a single act prohibited by this Act shall be sufficient to justify a penalty, injunction, restraining order, or conviction, respectively, without evidence of a general course of conduct.

Section 17. Confidential Communications. Except by permission of the client engaging a licensee under this Act, or the heirs, successors, or personal representatives of such client, a licensee or any partner, officer, member, manager, shareholder, or employee of a licensee shall not voluntarily disclose information communicated to the licensee by the client relating to and in connection with services rendered to the client by the licensee in the

practice of public accountancy. Such information shall be deemed confidential, provided, however, that nothing herein shall be construed as prohibiting the disclosure of information required to be disclosed by the standards of the public accounting profession in reporting on the examination of financial statements or as prohibiting disclosures in court proceedings, in investigations or proceedings under Section 10 or 11 of this Act, in ethical investigations conducted by private professional organizations, or in the course of quality reviews.

Section 18. Licensees' Working Papers; Clients' Records.

(a) All statements, records, schedules, working papers, and memoranda made by a licensee or a partner, shareholder, officer, director, member, manager or employee of a licensee, incident to, or in the course of, rendering services to a client in the practice of public accountancy, except the reports submitted by the licensee to the client and except for records that are part of the client's records, shall be and remain the property of the licensee in the absence of an express agreement between the licensee and the client to the contrary. No such statement, record, schedule, working paper, or memorandum shall be sold, transferred, or bequeathed, without the consent of the client or the client's personal representative or assignee, to anyone other than one or more surviving partners, stockholders, members or new partners, new stockholders, or new members of the licensee, or any combined or merged firm or successor in interest to the licensee. Nothing in this Section should be construed as prohibiting any temporary transfer of workpapers or other material necessary in the course of carrying out quality reviews or as otherwise interfering with the disclosure of information pursuant to Section 17.

(b) A licensee shall furnish to a client or former client, upon request and reasonable notice:

(1) A copy of the licensee's working papers, to the extent that such working papers include records that would ordinarily constitute part of the client's records and are not otherwise available to the client; and

(2) Any accounting or other records belonging to, or obtained from or on behalf of, the client that the licensee removed from the client's premises or received for the client's account; the licensee may make and retain copies of such documents of the client when they form the basis for work done by the licensee.

(c) Nothing herein shall require a licensee to keep any workpaper beyond the period prescribed in any other applicable statute.

Section 19. Privity of Contract.

(a) This Section applies to all causes of action of the type specified herein filed on or after the effective date.

(b) This Section governs any action based on negligence brought against any accountant or firm of accountants practicing in the CNMI by any person or entity claiming to have been injured as a result of financial statements or other information examined, compiled, reviewed, certified, audited or otherwise reported or opined on by the defendant accountant or in the course of an engagement to provide other public accountancy services.

(c) No action covered by this Section may be brought unless:

(1) The plaintiff (1) is issuer (or successor of the issuer) of the financial statements or other information examined, compiled, reviewed, certified, audited or otherwise reported or opined on by the defendant and (2) engaged the defendant accountant to examine, compile, review, certify, audit or otherwise report or render an opinion on such financial statements or to provide other public accountancy services; or

(2) The defendant accountant or firm: (1) was aware at the time the engagement was undertaken that the financial statements or other information were to be made available for use in connection with a specified transaction by the plaintiff who was specifically identified to the defendant accountant, (2) was aware that the plaintiff intended to rely upon such financial statements or other information in connection with the specified transaction, and (3) had

direct contact and communication with the plaintiff and expressed by words or conduct the defendant accountant's understanding of the reliance on such financial statements or other information.

Section 20. Uniform Statute of Limitations.

(a) This Section applies to all causes of action of the type specified herein filed on or after the effective date.

(b) This Section governs any action based on negligence or breach of contract brought against any accountant, or any accounting firm practicing in the CNMI by any person or entity claiming to have been injured as a result of financial statements or other information examined, compiled, reviewed, certified, audited or otherwise reported or opined on by the defendant accountant as a result of an engagement to provide public accountancy services.

(c) No action covered by this Section may be brought unless the suit is commenced on or before the earlier of:

(1) one year from the date the alleged act, omission or neglect is discovered or should have been discovered by the exercise of reasonable diligence;

(2) three years after completion of the service for which the suit is brought has been performed; or

(3) three years after the date of the initial issuance of the accountant's report on the financial statements or other information

Section 2 1. Proportionate Liability.

(a) This Section applies to all causes of action of the type specified herein filed on or after the effective date.

(b) This Section governs any claim for money damages brought against any accountant; or any accounting firm registered, licensed, or practicing in the CNMI; or any employee or principal of such firm by any person or entity claiming to

have been injured as a result of the practice of public accountancy by the defendant accountant or other person or entity.

(c) No judgment for money damages may be entered against any accountant, firm, employee, or principal described in subsection (b) (collectively referred to in this subsection as the “accountant”) in an action covered by this Section except in accordance with the provisions of this subsection.

(1) If the party seeking a judgment for damages against the accountant proves that the accountant acted with the deliberate intent to deceive, manipulate or defraud for the accountant’s own direct pecuniary benefit, the liability of the accountant shall be determined according to the principles that generally apply to such an action.

(2) If the accountant is not proven to have acted with the deliberate intent to deceive, manipulate or defraud for the accountant’s own direct pecuniary benefit, the amount of the accountant’s liability in damages shall be determined as follows:

(A) The trier of fact shall determine the percentage of responsibility of the plaintiff, of each of the defendants, and of each of the other persons or entities alleged by the parties to have caused or contributed to the harm alleged by the plaintiff. In determining the percentages of responsibility, the trier of fact shall consider both the nature of the conduct of each person and the nature and extent of the casual relationship between that conduct and the damage claimed by the plaintiff.

(B) The trier of fact shall next determine the total amount of damage suffered by the plaintiff caused in whole or in part by the plaintiff, the defendants, and other persons alleged to have caused or contributed to the damage.

(C) The trier of fact shall then multiply the percentage of responsibility of the account (determined under (A) by the total amount of damages (determined under (B) and shall enter a judgment or verdict against the accountant in an amount no greater than the product of those two factors.

(D) In no event shall the damages awarded against or paid by an accountant exceed the amount determined under (C). The accountant shall not be jointly liable on any judgment entered against any other party to the action.

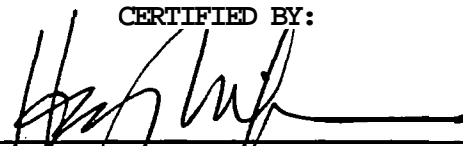
Except where a contractual relationship permits, no defendant shall have a right to recover from an accountant any portion of the percentage of damages assessed against such other defendant.

Section 22. 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 23. 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.

Section 24. Effective Date. This Act shall take effect upon its approval by the Governor or upon becoming law without such approval.

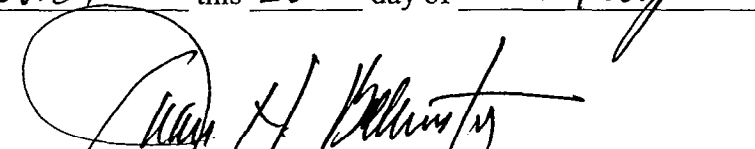
CERTIFIED BY:


HEINZ S. HOFSCHEIDER
SPEAKER OF THE HOUSE

ATTESTED BY:


EVELYN C. FLEMING
HOUSE CLERK

Approved this *20th* day of *May*, 2003


JUAN N. BABAUTA
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS