

P.L. 11-73



GOV. COMM. 11-422
(HOUSE)

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Pedro P. Tenorio
Governor

Jesus R. Sablan
Lt. Governor

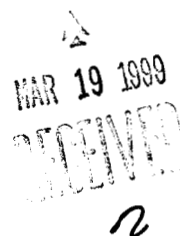
Caller Box 10007
Saipan, MP 96950
Telephone: (670) 664-2200
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The Honorable Paul A. Manglona
President of the Senate
Eleventh Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

MAR 19 1999

and

The Honorable Diego T. Benavente
Speaker, House of Representatives
Eleventh Northern Marianas
Commonwealth Legislature
Saipan, MP 96950



Dear Mr. President and Mr. Speaker:

This is to inform you that I have signed into law Senate Bill No. 11-96, referred to as the "Business Licensing Processing Act of 1998," which was passed by the Eleventh Northern Marianas Commonwealth Legislature.

Although, cross referencing of information was being done by the Department of Commerce and the Department of Finance, Division of Revenue & Taxation, occasional inconsistencies were unavoidable because the taxes and licensing functions were the responsibility of two different departments. The centralization of the issuance of business licensing within the Revenue and Taxation Division will enhance compliance with and enforcement of the laws regarding these issues.

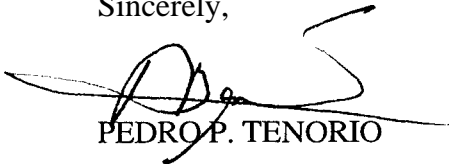
This measure is supported by the Secretaries of Commerce and Finance, who are ready to assist each other to implement the law and to address any problem that might arise.

On a technical note, Section 4 of the bill which references the amendment to 4 CMC, §5611, by stating "as amended by P.E. 11-29," should also indicate that 4 CMC §5611(a) was amended by Public Law 11-65 (Pawnbrokers Act of 1998) subsequent to P.L. 11-29.

I believe it is also important to clarify for the public that, the Secretary of Finance's authority to make inquiry under Section 5 of the law is naturally subject to the constitutional requirements regarding a search of the premises.

This bill becomes **Public Law No. 11-73**. Copies bearing my signature are forwarded for your reference.

Sincerely,

A handwritten signature in black ink, appearing to read 'Pedro P. Tenorio', with a long horizontal stroke extending to the right.

PEDRO P. TENORIO

CC: Secretary of Commerce
Secretary of Finance
Special Assistant for Programs & Legislative Review



PUBLIC LAW NO. 11-73
The Senate
NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
P.O. Box 129
Saipan, MP 96950

FEB. 17 1999

Honorable Pedro P. Tenorio
Governor
Commonwealth of the Northern
Mariana Islands
Saipan, MP 96950

Dear Governor Tenorio:

I have the honor to transmit herewith for your action one (1) original copy of Senate Bill No. 11-96, entitled, "An Act to transfer the function of business licensing from the Department of Commerce to the Department of Finance and for other purposes.", which was passed by the Senate and the House of Representatives of the Eleventh Northern Marianas Commonwealth Legislature.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward U. Maratita", written over a horizontal line.

EDWARD U. MARATITA
SENATE LEGISLATIVE SECRETARY

Attachment

Rt 01/17/99

THE SENATE
ELEVENTH NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE

THIRD REGULAR SESSION, 1999

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

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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.

=====

Offered by Senator(s): Pete P. Reyes

.DATE: December 17, 1998

SENATE ACTION

Standing Committee Report No.: None
Second and Final Reading: December 17, 1998

HOUSE ACTION

Standing Committee Report No.: None
First and Final Reading: February 10, 1999



EDWARD U. MARATITA
SENATE LEGISLATIVE SECRETARY

**ELEVENTH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE**

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

THIRD REGULAR SESSION, 1999

AN ACT

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

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

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

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

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

10 It is therefore the purpose of this legislation to transfer the function of issuing
11 business licenses from the Department of Commerce to the Department of Finance in
12 order to strengthen the Department of Finance's efforts to enforce tax compliance.
13 The day-to-day function of issuing licenses within the Department of Finance shall be
14 handled by the Division of Revenue and Taxation.

15 Section 3. Amendment. Department of Finance: Duties and Responsibilities.

16 1 CMC section 2553 is hereby amended to add new subsections (l) and (m) to read:

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

1 the authority to promulgate rules and regulations for the purpose of carrying
2 out this provision."

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

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

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

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

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

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

22 (1) Banks, \$500;

23 (2) Offshore banking corporations, \$1,000;

24 (3) Securities dealers, \$300;

25 (4) Insurance companies, \$300;

1 (5) Insurance brokers, \$100;

2 (6) Insurance agents, \$75;

3 (7) Public utilities, \$300;

4 (8) Manufacturers, \$50;

5 (9) Wholesalers, \$50;

6 (10) Roadside vendors selling local agricultural and fishery
7 products, \$5;

8 (11) Scuba instruction and scuba diving tour operations, \$100;

9 (12) General business license covering all other businesses
10 unless otherwise provided by this act, \$50, per separate line of
11 business.

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

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

17 (g) Conditions for Revocation or Suspension.

18 (1) The Secretary of the Department of Finance may revoke or
19 suspend any license issued under this section upon finding after two
20 weeks public notice and a hearing conducted pursuant to 1 CMC §§
21 9108-9111 that:

22 (i) The application of the licensee contained false or
23 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

1 any inquiry into the establishment's compliance with the business
2 licensing requirements under this chapter.

3 b) The authority given to enter the premises under
4 subsection (a) shall be carried out during normal business hours. If the
5 Secretary finds it is not practical to perform its duties during normal
6 working hours, the action authorized under subsection (a) may be
7 carried out at any reasonable hour as determined by the Secretary."

8 Section 6. Penalty for Violation of Business License Requirements.

9 4 CMC, Division 5, Chapter 6 is hereby amended to add a new section 5613 to read:

10 "§ 5613. Penalty for Violation of Business License Requirements.

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

19 b) The agency action provided for in subsection (a) of this
20 section shall subject to the Administrative Procedure Act,
21 1 CMC § 9101 et. seq.

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

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

3 "§ 5614. Regulations. The Secretary of Finance shall promulgate any
4 necessary rules and regulations necessary to carry out the intent of this act as it
5 relates to the duties conferred upon the Secretary of Finance."

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

8 "For purposes of this chapter:

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

11 (b) 'Engaged in substantial construction or manufacturing' means:

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

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

18 3) One of the following requirements:

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

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

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

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

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

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

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

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

4 (e) 'Qualified garment manufacturer' means a garment manufacturer
5 engaged in manufacturing textiles or textile products.

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

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

15 Section 9. Amendment. Prohibition on Issuance of New Licenses. 4 CMC §
16 5702 is hereby amended to read:

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

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

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

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

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

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

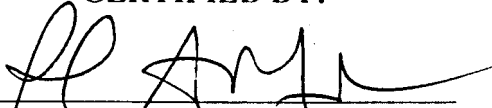
14 Section 12. Severability. If any provision of this Act or the application of any
15 such provision to any person or circumstance should be held invalid by a court of
16 competent jurisdiction, the remainder of this Act or the application of its provisions to
17 persons or circumstances other than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

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

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

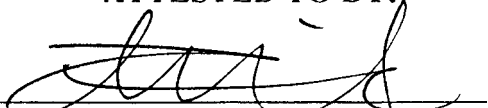
1 Section **14. Effective Date.** This Act shall take effect upon its approval by the
2 Governor or its becoming law without such approval.

CERTIFIED BY:

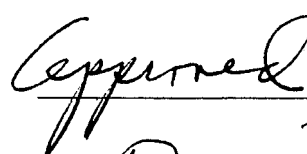


PAUL A. MANGLONA
PRESIDENT OF THE SENATE

ATTESTED TO BY:



EDWARD U. MARATTITA
SENATE LEGISLATIVE SECRETARY

 this 19th day of March, 1999.



PEDRO P. TENORIO
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS