

TITLE 1: GOVERNMENT
DIVISION 2: EXECUTIVE BRANCH

§ 2553. Department of Finance: Duties and Responsibilities.

The duties and responsibilities of the Department of Finance include, but are not limited to, the following:

(a) To collect and deposit all locally raised revenues from any source, including taxes, custom duties, excise tax revenues, license fees and payment for services;

(b) To receive and deposit all funds from the federal government;

(c) To establish and maintain the books of accounts of the Commonwealth;

(d) To manage trust and retirement funds and related receipts of the Commonwealth;

(e) Unless otherwise provided by law, to establish and maintain special revenue and disbursement accounts on behalf of Commonwealth public corporations;

(f) To select the bank or banks in which Commonwealth funds are to be deposited;

(g) To disburse funds pursuant to authority of law;

(h) To provide financial data to the Governor, legislature and departments, agencies and instrumentalities of the Commonwealth, and to conduct all related financial management activities of the Commonwealth other than the preparation of the budget of the Commonwealth and post-audit functions;

(i) To be responsible for customs and baggage inspection and other related matters;

(j) To be in control of and be responsible for procurement and supply in the Commonwealth; and

(k) To promptly pay and disburse funds and payment for outstanding obligations, excluding tort obligations, owed by the Commonwealth to vendors, suppliers and other individuals whom the Commonwealth has a legal obligation to pay. The payment shall be authorized, or documented as to why payment cannot be authorized, no later than 30 days. The unpaid balance of any indebtedness of the Commonwealth shall accrue interest equal to the amount set in 4 CMC § 1817 on the unpaid balance until the indebtedness, plus interest, is paid in full.

(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.

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Nothing in this section prevents a department, agency or instrumentality of the Commonwealth from collecting revenues with the approval of the Director of Finance. All receipts so collected shall be transmitted to the Department of Finance.

Source: PL 1-8, tit. 1, ch. 11, § 3, modified; amended by PL 7-53, § 3; new subsections (l) and (m) added by PL 11-73, § 3, modified.

Commission Comment: See N.M.I. Const. art. X, § 8, concerning control of public finance.

With respect to the references to the “Director of Finance” and the “Department of Finance,” see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001; see also the comment to 1 CMC § 2551.

PL 11-73, which added new subsections (l) and (m) took effect on March 19, 1999. PL 11-73 contained short title, findings and purpose, transfer of full-time equivalents, severability and savings clauses as follows:

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

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

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

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

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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.

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

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

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