

TITLE 1: GOVERNMENT
DIVISION 2: EXECUTIVE BRANCH

§ 2902. Appointments: Legislative Consent Required.

Appointments to positions which require the advice and consent of the Senate, or the Senate and House, or which required the advice and consent of members of senatorial districts shall be submitted to the appropriate presiding officer within 30 days following the date the person was appointed or assumed the position, even in an acting capacity, due to the position becoming vacant for any reason. If the appointment is not submitted to the presiding officers within the 30 day period, the appointment shall automatically terminate, the position shall become vacant, and the person shall not be reappointed for the same position. If the Senate (or, when applicable, the House) is in recess at the time of submission, the appointment shall go over to the next regular session for appropriate action unless a special session is called.

Source: PL 1-8, tit. 1a, § 2, modified; amended by PL 18-17 § 2 (Sept. 5, 2013), modified.

Commission Comment: PL 18-17 (Sept. 5, 2013), was passed with “strikeout” and “underlined” text to indicate the amended provisions. The Commission codified the law to reflect the amended language. In addition to savings and severability clauses, PL 18-17, contained the following:

Section 1. Findings. The Legislature finds that 1 CMC § 2902 has been construed to authorize the Governor to make interim thirty day executive appointments. The CNMI Superior Court in *Demapan v. Kara*, reviewing allegations that the Acting Attorney General for the CNMI was holding her position illegally and in violation of the N.M.I. Constitution, held that the “Governor does not have the authority to appoint any person as interim Attorney General for periods of thirty days or less. Rather, the Governor’s sole authority to appoint an Attorney General derives from Article III, § 11. Thus, whenever the Governor appoints a so-called “Acting Attorney General,” he is appointing the person pursuant to his authority under Article III, § 11 of the N.M.I. Constitution and no other authority.”

The Court in the *Demapan v. Kara* case further held that “[t]his court is aware that [1 CMC] § 2902 does not state what happens to a nomination if the name is not submitted within the thirty day period. This court cannot conclude, however, that in the absence of such a provision, an acting appointment can effectively be rendered permanent by an unlimited number of acting reappointments. The court finds that an acting appointment must be for a reasonable time period, and during this period, the appointee must either be confirmed or rejected by the Senate. If such appointee is rejected, that person should vacate the office and the Governor should proceed to make another appointment.”

The Legislature finds that based on the Court’s findings in *Demapan v. Kara*, Article III, § 11 does not authorize “acting” executive appoint-

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ments and executive appointments must be submitted to the legislature and acted upon within a reasonable time. Accordingly, the purpose of this legislation is to amend 1 CMC § 2902 to prohibit unlimited thirty-day executive acting appointments, which constitute an unreasonable delay of the appointment and confirmation process of executive appointments.