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Office of the Governor of Guam

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Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

2009 JUN 25 AM 9:57

24 JUN 2009

The Honorable Judith T. Won Pat, Ed.D.
Speaker
Mina' Trenta Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Speaker Won Pat:

Transmitted herewith is Bill No. 25(LS) "AN ACT TO REPEAL AND RE-ENACT CHAPTER 32 OF TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO THE PROFESSIONAL ENGINEERS, ARCHITECTS AND LAND SURVEYORS (PEALS) LAW " which I signed into law on June 19, 2009 as **Public Law 30-35**.

Sinseru yan Magåhet,

FELIX P. CAMACHO
I Maga'låhen Guåhan
Governor of Guam

Attachment: copy of Bill

30-09-0742
Office of the Speaker
Judith T. Won Pat, Ed. D.
Date 6/24/09
Time 3PM
Received by [Signature]

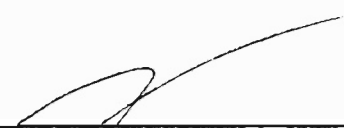
I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

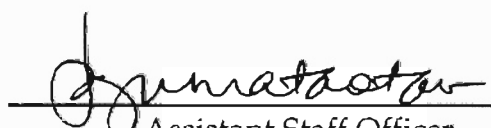
This is to certify that Substitute Bill No. 25 (LS), "AN ACT TO REPEAL AND RE-ENACT CHAPTER 32 OF TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO THE PROFESSIONAL ENGINEERS, ARCHITECTS AND LAND SURVEYORS (PEALS) LAW," was on the 29th day of May 2009, duly and regularly passed.

Attested:


Benjamin J.F. Cruz
Acting Speaker


vicente c. pangelinan
Acting Legislative Secretary

.....
This Act was received by I Maga'lahaen Guåhan this 09 day of June, 2009, at
3:05 o'clock P.M.


Assistant Staff Officer
Maga'laha's Office

APPROVED

FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: 19 JUNE 2009

Public Law No 30-35

I MINA'TRENTA NA LIHESLATURAN GUÁHAN
2009 (First) Regular Session

Bill No. 25 (LS)

As substituted by the Committee on Utilities,
Transportation, Public Works and Veterans Affairs
and amended on the floor.

Introduced by:

J. V. Espaldon
T. C. Ada
F. B. Aguon, Jr.
F. F. Blas, Jr.
E. J.B. Calvo
B. J.F. Cruz
Judith P. Guthertz, DPA
T. R. Muña Barnes
Adolpho B. Palacios, Sr.
v. c. pangelinan
M. J. Rector
R. J. Respicio
Telo Taitague
Ray Tenorio
Judith T. Won Pat, Ed.D.

**AN ACT TO *REPEAL* AND *RE-ENACT* CHAPTER 32 OF
TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO THE
PROFESSIONAL ENGINEERS, ARCHITECTS AND LAND
SURVEYORS (PEALS) LAW.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Chapter 32 of Division 3, Title 22, Guam Code Annotated, is
repealed and *re-enacted* to read:

“CHAPTER 32

THE PROFESSIONAL ENGINEERS, ARCHITECTS

AND LAND SURVEYORS LAW (PEALS)

1 **§32101. Name.** This Chapter may be cited as the *Professional*
2 *Engineers, Architects and Land Surveyors Law.*

3 **§32102. General Provisions.** In order to safeguard life, health,
4 and property, and to promote the public welfare, the practice of engineering,
5 architecture, landscape architecture and land surveying in Guam is hereby
6 declared to be subject to regulation in the public interest. It *shall* be
7 unlawful for any person to practice *or* to offer to practice engineering,
8 architecture, landscape architecture *or* land surveying in Guam as defined in
9 the provisions of this Chapter *or* to use in connection with his name *or*
10 otherwise assume *or* advertise any title *or* description tending to convey the
11 impression that he is an engineer, an architect, landscape architect *or* land
12 surveyor, unless such person has been duly registered *or* exempted under the
13 provisions of this Chapter. The practice of engineering, architecture,
14 landscape architecture and land surveying *shall* be deemed a privilege
15 granted by the government of Guam through the Guam Board of
16 Registration for Professional Engineers, Architects, Landscape Architects
17 and Land Surveyors, based on the qualifications of the individual as
18 evidenced by his certificate of registration which *shall not* be transferable.

19 **§32103. Definitions.** For the purpose of this Chapter, words used
20 in the masculine gender include the feminine, *or* vice-versa, where
21 appropriate.

22 (a) Engineer.

23 (1) *Engineer* means a person who, by reason of his special
24 knowledge and use of the mathematical, physical and engineering
25 sciences and the principles and methods of engineering analysis and
26 design, acquired by engineering education and engineering

1 experience, is qualified to practice engineering.

2 (2) *Professional Engineer* means a person who is duly
3 registered and licensed by the Guam Board of Registration for
4 Professional Engineers, Architects and Land Surveyors as a
5 Professional Engineer.

6 (3) *Professional Engineer, Emeritus*, means a person who is
7 a *Professional Engineer, Retired*, and who is sixty-five (65) years of
8 age; and has been a resident of Guam for at least five (5) years; and
9 has had *no* disciplinary action against him; and who applies to and is
10 approved by the Board to be granted the use of the honorific title,
11 *Professional Engineer, Emeritus*.

12 (4) *Professional Engineer, Retired* means a person who has
13 been duly licensed as a professional engineer by the Board and who
14 chooses to relinquish *or not* to renew a license and who applies to and
15 is approved by the Board to be granted the use of the honorific title,
16 *Professional Engineer, Retired*.

17 (5) *Engineer Intern* means a person who complies with the
18 requirements for education, experience and character, and has passed
19 an examination in the fundamental engineering subjects, as provided
20 in §32113 and §32115 of this Chapter.

21 (6) *Practice of Engineering* means any service *or* creative
22 work, the adequate performance of which requires engineering
23 education, training, and experience in the application of special
24 knowledge of the mathematical, physical, and engineering sciences to
25 such services *or* creative work as consultation, investigation, expert
26 technical testimony, evaluation, planning, design, and design

1 coordination of engineering works and systems, planning the use of
2 land, air and water, teaching of advanced engineering subjects,
3 performing engineering studies and the review and/or management of
4 construction for the purpose of monitoring and/or ensuring
5 compliance with drawings and specifications; any of which embraces
6 such services of work, either public *or* private, in connection with any
7 utilities, structures, buildings, machines, equipment, processes, work
8 systems, projects, communication systems, transportation systems,
9 and industrial or consumer products, *or* equipment of a control
10 systems, communications, mechanical, electrical, hydraulic,
11 pneumatic, chemical, environmental or thermal nature, insofar as they
12 involve safeguarding life, health, *or* property, and including such
13 other professional services as may be necessary to the planning,
14 progress, and completion of any engineering services.

15 Design coordination includes the review and coordination of
16 those technical submissions prepared by others, including as
17 appropriate and without limitation, consulting engineers, architects,
18 landscape architects, surveyors, and other professionals working
19 under the direction of the engineer.

20 A person *shall* be construed to practice *or* offer to practice
21 engineering, within the meaning and intent of this Chapter, who
22 practices any branch of the profession of engineering *or* who, by
23 verbal claim, sign, advertisement, letterhead, card, *or* in any other way
24 represents themselves to be a professional engineer *or* through the use
25 of some other title implies that they are a professional engineer *or* that
26 they are licensed under this Chapter; or who hold themselves out as

1 able to perform, or who does perform any engineering service *or* work
2 *or* any other service designated by the practitioner which is
3 recognized as engineering.

4 (7) *Consulting Engineer* means a professional engineer
5 whose principal occupation is the independent practice of engineering;
6 whose livelihood is obtained by offering engineering services to the
7 public; who services clients as an independent fiduciary; who is
8 devoid of public, commercial and product affiliation that might tend
9 to infer a conflict of interest; and who is cognizant of his public and
10 legal responsibilities, and is capable of discharging them.

11 (b) Architect.

12 (1) *Architect* means a person, who by reason of his knowledge of
13 the mathematical, and physical sciences, and the principles of architecture
14 and architectural engineering acquired by professional education and
15 practical experience is qualified to engage in the practice of architecture and
16 who has been duly registered and licensed by the Guam Board of
17 Registration for Professional Engineers, Architects and Land Surveyors as
18 an Architect.

19 (2) *Practice of Architecture* means any service *or* creative work,
20 the adequate performance of which requires architectural education, training
21 and experience and the application of the mathematical and physical
22 sciences and the principles of architecture and architectural engineering to
23 such professional services *or* creative work as consultation, investigation,
24 evaluation, planning, design, construction management, supervision *or*
25 observation of construction for the purpose of assuring compliance with
26 specifications and design in connection with any building which has as its

1 principal purpose human occupancy *or* habitation, any other building, *or* any
2 monument, structure, waterfront development, site development *or* project
3 including topographic work, grading and engineering incidental to the
4 performance of any architectural service *or* other services recognized by
5 educational authorities as architecture.

6 (3) *Registered Architect* means an Architect holding a current
7 registration with the Guam Board of Registration for Professional Engineers,
8 Architects and Land Surveyors as a Registered Architect.

9 (4) *Architect, Emeritus* means a person who is an *Architect*,
10 *Retired*, and who is sixty-five (65) years of age; and has been registered on
11 Guam for at least five (5) years; and has been a resident of Guam for at least
12 five (5) years; and has had *no* disciplinary action against him; and who
13 applies to and is approved by the Board to be granted the use of the honorific
14 title, *Architect, Emeritus*.

15 (5) *Architect, Retired*, means a person who has been duly licensed
16 as an Architect by the Board and who chooses to relinquish or *not* to renew a
17 license and who applies to and is approved by the Board to be granted the
18 use of the honorific title, *Architect, Retired*.

19 (c) Landscape Architect.

20 (1) *Landscape Architect* means a person who has been duly
21 registered/licensed by the Board to engage in the practice of landscape
22 architecture in Guam.

23 (2) *Practice of Landscape Architecture* means:

24 (a) Those who hold themselves out as able to perform
25 professional services such as consultation, investigation,
26 reconnaissance, research, design, preparation of drawings and

1 specifications, and responsible supervision where the dominant
2 purpose of such services is the preservation and enhancement of land
3 uses and natural land features; the location and construction of
4 aesthetically pleasing and functional approaches for structures,
5 roadways, and walkways; and design for equestrian trails, plantings,
6 landscape irrigation, landscape lighting, and landscape grading. This
7 practice shall include the location, arrangements, and design of such
8 tangible objects and features as are incidental and necessary for the
9 purposes outlined herein. Nothing herein shall preclude a duly
10 registered landscape architect from planning the development of land
11 areas and elements used thereon or from performing any of the
12 services described in this Section in connection with the settings,
13 approaches, or environment for buildings, structures, or facilities. A
14 registered landscape architect shall *not* practice or offer to practice
15 architecture or any branch of engineering.

16 (b) A person is considered to be practicing or offering to
17 practice landscape architecture, within the meaning and intent of the
18 law, who practices the profession of landscape architecture or who, by
19 verbal claim, sign, advertisement, letterhead, card or in any other way
20 represents themselves to be a landscape architect or through the use of
21 some other title, implies that they are licensed or holds themselves out
22 as able to perform or who does perform any landscape architecture
23 service or work or any other service designated by the practitioner
24 which is recognized as landscape architecture.

25 (d) Land Surveyor.

26 (1) *Land Surveyor* means a person who is knowledgeable in

1 the technique of measuring land, educated in the basic principles of
2 mathematics, the related physical and applied sciences, and relevant
3 requirements of law for adequate evidence and all requisite to the
4 surveying of real property and engaged in the practice of land
5 surveying as herein defined.

6 (2) *Professional Land Surveyor* means a person who is duly
7 registered and licensed by the Guam Board of Registration for
8 Professional Engineers, Architects and Land Surveyors as a
9 Professional Land Surveyor, and who is a professional specialist in the
10 technique of measuring land, educated in the basic principles of
11 mathematics, the related physical and applied sciences, and the
12 relevant requirements of law for adequate evidence and all requisite to
13 surveying of real property, and engaged in the practice of surveying as
14 herein defined.

15 (3) *Professional Land Surveyor, Emeritus* means a person
16 who is a *Professional Land Surveyor, Retired*; and who is sixty five
17 (65) years of age; and has been registered on Guam for at least five (5)
18 years; and has been a resident of Guam for at least five (5) years; and
19 has had *no* disciplinary action against him; and who applies to and is
20 approved by the Board to be granted the use of the honorific title,
21 *Professional Land Surveyor, Emeritus*.

22 (4) *Professional Land Surveyor, Retired*, means a person
23 who has been duly licensed as a Professional Land Surveyor by this
24 Board and who chooses to relinquish or *not* to renew a license and
25 who applies to and is approved by the Board to be granted the use of
26 the honorific title, *Professional Land Surveyor, Retired*.

1 (5) *Land Surveyor Intern* means a person who has qualified
2 for, taken and passed the land surveyor intern examinations as
3 provided in this Chapter.

4 (6) *Practice of Land Surveying* means providing, or offering
5 to provide, professional services using such sciences as mathematics,
6 geodesy, and photogrammetry, and involving both (1) the making of
7 geometric measurements and gathering related information pertaining
8 to the physical and or legal features of the earth, improvements on the
9 earth, the space above, on, or below the earth, and (2) providing,
10 utilizing or developing the same into survey products, such as
11 graphics, data, maps, plans, reports, descriptions, or projects.
12 Professional services include acts of consultation, investigation,
13 testimony evaluation, expert technical testimony, planning, mapping,
14 assembling and interpreting gathered measurements and information
15 related to any one (1) or more of the following:

16 (A) Determining by measurement the configuration or
17 contour of the earth's surface or the position of fixed objects
18 thereon.

19 (B) Determining, by performing geodetic surveys, the
20 size and shape of the earth or the position of any point on the
21 earth.

22 (C) Locating, relocating, establishing, or retracing
23 property lines or boundaries of any tract of land, road, right-
24 of-way, or easement.

25 (D) Marking any survey for the division, subdivision,
26 or consolidation of any tract(s) of land.

1 (E) Locating or laying out alignments, positions, or
2 elevations for the construction of fixed works.

3 (F) Determining, by the use of principles of surveying,
4 the position for any survey monument (boundary or non-
5 boundary) or reference point; establishing or replacing any
6 such monument or reference point.

7 (G) Creating, preparing, or modifying electronic or
8 computerized data, relative to the performance of the activities
9 in the above described items (A) through (F).

10 (H) Certifying, within the metadata of a Geographical
11 Information System data base, the positional accuracy of the
12 features, cadastral and/or boundary lines, fixed objects,
13 utilities, images and graphically displayed data sets that are
14 used for base mapping.

15 A person shall be construed to practice or offer to
16 practice surveying, within the meaning and intent of this
17 Chapter, who by verbal claim, sign, advertisement, letterhead,
18 card, or in any other way represents themselves to be a land
19 surveyor or through the use of some other title implies that
20 they are a professional land surveyor or that they are licensed
21 under this Chapter; or who hold themselves out as able to
22 perform, or who does perform any surveying service or work
23 or any other service designated by the practitioner which is
24 recognized as surveying except to references to engineering
25 surveys.

26 (e) *Approved School* means institutions offering curricula

1 leading to first professional degrees in engineering, architecture,
2 landscape architecture or land surveying and are accredited by the
3 Accreditation Board for Engineering and Technology, Inc., or the
4 NCEES Center for Professional Engineering Education Services or
5 the National Architectural Accrediting Board.

6 (f) *ARE* means the current Architect Registration
7 Examination prepared by the National Council of Architectural
8 Registration Boards.

9 (g) *Association* means the act of a number of persons in
10 uniting together for some special purpose or business. It is a term of
11 vague meaning used to indicate a collection or organization of persons
12 who have joined together for a certain or common objective.

13 (h) *Board* means the Guam Board of Registration for
14 Professional Engineers, Architects, and Land Surveyors, hereinafter
15 provided by this Chapter.

16 (i) *Certificate of Authorization* means those presents issued
17 by the Guam Board of Registration for Professional Engineers,
18 Architects and Land Surveyors to a corporation, partnership,
19 proprietorship, limited liability company, or other legal entity allowed
20 by Guam law, the name of that organization which serves to identify it
21 as having the legal right to offer engineering, architectural, landscape
22 architectural, land surveying or construction management services.
23 This Certificate of Authorization is separate and apart from the
24 Certificate of Authority issued by the Department of Revenue and
25 Taxation permitting a corporation to conduct business and engage in
26 the practice of services contained in the Certificate.

1 (j) *Certificate of Registration* means those presents issued
2 by the Guam Board of Registration for Professional Engineers,
3 Architects, Landscape Architects and Land Surveyors to an individual
4 in his own name, which serves to identify those legally entitled to
5 practice engineering, architecture, landscape architecture or land
6 surveying.

7 (k) *CLARB* means the Council of Landscape Architectural
8 Registration Boards.

9 (l) *Construction Management* to be performed by licensed
10 or registered engineers, architects, landscape architects, or land
11 surveyors, shall include, but *not* be limited to, professional services
12 during construction, such as, permitting process and coordination, bid
13 evaluation and contract award, processing of payment requests and
14 change orders, claims and dispute resolution, review and approval of
15 submittals and progress schedules, onsite quality assurance
16 inspections and testing, survey checks, compliance to contract
17 documents, and contract closeout including as-built drawings and
18 Operation & Maintenance manuals and training.

19 (m) *Corporation* means an association of individuals or legal
20 entity created by or under the authority of the laws of a territory, state
21 or nation, composed, in some rare instances, of a single person and his
22 successors, being the incumbents of a particular office, but ordinarily
23 consisting of an association of numerous individuals.

24 (n) *CSCS* means the California Special Civil Seismic
25 examination prepared by the California Board of Professional
26 Engineers and Land Surveyors.

1 (o) *IDP* means the Intern Development Program prepared
2 and issued by the NCARB.

3 (p) *L.A.R.E.* means the landscape architect registration
4 examination prepared by the Council of Landscape Architectural
5 Registration Boards.

6 (q) *NAAB* means the National Architectural Accrediting
7 Board.

8 (r) *NCARB* means the National Council of Architectural
9 Registration Boards.

10 (s) *NCEES* means the National Council of Examiners for
11 Engineering and Surveying.

12 (t) *Partner* means one who has united with others to form a
13 partnership in business.

14 (u) *Proprietorship* means a business, usually unincorporated,
15 owned and controlled exclusively by one (1) person. Such a business
16 is commonly designated as a “sole proprietorship”.

17 (v) *Registrant or Licensee* means any person holding a
18 current registration as a Professional Engineer, Registered Architect,
19 Landscape Architect or Professional Land Surveyor.

20 (w) *Responsible Control* means that amount of control over,
21 and detailed knowledge of, the content of the technical submission
22 during their preparation, as is ordinarily exercised by professional
23 engineers, registered architects, registered landscape architects and/or
24 professional land surveyors, applying the required professional
25 standard of care. Reviewing, or reviewing and correcting, technical
26 submissions after they have been prepared by others does *not*

1 constitute the exercise of responsible control because the reviewer has
2 neither control over, nor detailed professional knowledge of, the
3 content of such submissions throughout their preparation.

4 (x) *Responsible Managing Employee* means a person who is
5 licensed under this Chapter and who has been designated, pursuant to
6 §32123 of this Chapter, by the firm. The managing employee is
7 responsible for the engineering, architecture, landscape architecture or
8 land surveying work on Guam and/or for projects or property within
9 this jurisdiction offered or provided by the firm. A licensee may *not*
10 be designated as a responsible managing employee for more than one
11 (1) firm. An engineer, architect, landscape architect or surveyor who
12 renders occasional, part-time, or consulting services to, or for, a firm
13 may *not* be designated as a managing employee. The managing
14 employee's responsibilities include:

15 (1) renewal of the Certificate of Authorization and
16 notification to the Board of any change in the managing
17 employee;

18 (2) overall management of the firm's licensed and
19 subordinate personnel providing the engineering, architecture or
20 surveying work in this jurisdiction; and

21 (3) institution and adherence of policies of the firm
22 that are in accordance with the Rules of Professional Conduct,
23 adopted pursuant to §32109(e) of this Chapter.

24 (y) *Rules of Professional Conduct for Professional Engineers,*
25 *Architects, Landscape Architects, and Land Surveyors* means those rules
26 promulgated by the Board as authorized by law.

1 (z) *Technical Submissions* means designs, drawings, specifications,
2 studies, and other technical documents prepared in the course of practicing
3 engineering, architecture, landscape architecture and land surveying. All
4 technical submissions *shall* be identified by date and by name and address of
5 the licensee or licensee's firm.

6 (aa) *WCARB* means the Western Conference of Architectural
7 Registration Boards.

8 **§32104. Board Appointments; Terms.** A Guam Board of
9 Registration for Professional Engineers, Architect and Land Surveyors is
10 created whose duty *shall* be to administer the provisions of this Chapter.

11 (a) The Board *shall* consist of seven (7) members, at least two (2)
12 being female, to be constituted as follows: the Director of Public Works, five
13 (5) members who *shall* be registered under the provisions of this Chapter
14 and one (1) member of the general public who shall *not* have been registered
15 under the provisions of this Chapter, or practicing in any of the professions
16 covered by this Chapter. *Except* for the Director of Public Works, a member
17 *shall* be appointed by *I Maga'lahañ Guåhan* (Governor) for a term of four
18 (4) years. Of the five (5) registered professional members, two (2) *shall* be
19 registered architects (of which one (1) may be a landscape architect), two (2)
20 *shall* be professional engineers, and one (1) *shall* be a professional land
21 surveyor.

22 (b) The Chairman, Vice-Chairman and Secretary/Treasurer *shall* be
23 elected annually by majority vote of the Board members at the first regular
24 meeting of the Board after January 1.

25 (c) Each member of the Board *shall* receive a notice of his
26 appointment from *I Maga'lahañ Guåhan* (Governor) and *shall* take an oath

1 for the faithful discharge of his duties. Appointments to the Board *shall* be
2 in such manner so that the term of each member *shall* expire at a different
3 time. On the expiration of the term of any member, *I Maga'lahaen Guåhan*
4 (Governor) *shall* appoint a successor. A member may be reappointed to
5 succeed himself but for *not more than* two (2) consecutive terms. Each
6 member may hold office until the expiration of the term for which appointed
7 or until his successor has been duly appointed and qualified.

8 (d) In the event of a vacancy on the Board for any reason, resulting
9 in an unexpired term and *I Maga'lahaen Guåhan* (Governor) fails to appoint
10 a successor within three (3) months after the vacancy occurs, the Board may
11 appoint a provisional member to serve in the interim until *I Maga'lahaen*
12 *Guåhan* (Governor) makes an appointment.

13 **§32105. Board — Qualifications of Members.** Each member of
14 the Board *shall* be a citizen of the United States and a resident of Guam.
15 Board members who are required to be registered pursuant to §32104 of this
16 Chapter *shall* have been in responsible control in the lawful practice of
17 engineering, architecture, landscape architecture or land surveying for at
18 least eight (8) years, and with *no* record of disciplinary action from any
19 jurisdiction. The public member of the Board shall *not* be or have been an
20 engineer, architect or land surveyor.

21 **§32106. Board — Compensation and Expenses.** Board
22 Compensation and Travel *shall* follow the existing laws of the government
23 of Guam.

24 **§32107. Board — Removal of Members; Vacancies.** *I*
25 *Maga'lahaen Guåhan* (Governor) may remove any member for misconduct,
26 incompetence, neglect of duty, or any sufficient cause, in the manner

1 prescribed by law for removal of government officials. Vacancies in the
2 membership of the Board *shall* be filled for the unexpired term by
3 appointment by *I Maga'lahaen Guåhan* (Governor) as provided in §32104.

4 **§32108. Board — Organization and Meetings.** The Board *shall*
5 hold at least six (6) regular meetings each year. Special meetings may be
6 held as the rules and regulations of the Board provide. A quorum of the
7 Board shall consist of *not less than* four (4) members, three (3) of whom
8 *shall* be registered under the provisions of this Chapter.

9 **§32109. Board — Powers.** (a) The Board *shall* have the power
10 to adopt and amend all by-laws and rules of procedure *not* inconsistent with
11 the Organic Act of Guam and the laws of Guam, including, the adoption and
12 promulgation of the Rules of Professional Conduct for Professional
13 Engineers, Architects, Landscape Architects and Land Surveyors, which
14 *shall* be binding upon persons registered under this Chapter and which *shall*
15 be applicable to corporations, partnerships or associations holding a
16 Certificate of Authorization, which may be reasonably necessary for the
17 proper performance of its duties and the regulation of its procedures,
18 meetings, records, examinations and the conduct thereof. These actions by
19 the Board *shall* be binding upon the persons licensed or registered under this
20 Chapter, and on non-licensees found by the Board to be in violation of the
21 provisions of the Chapter, and *shall* be applicable to corporations holding a
22 Certificate of Authorization, as provided in §32123 of this Chapter.

23 (b) The Board *shall* adopt and have an official seal, which *shall* be
24 affixed to each certificate issued.

25 (c) In carrying into effect the provisions of this Chapter, the Board,
26 under the hand of its Chairman and the seal of the Board, may subpoena

1 witnesses and compel their attendance, and also may require the submission
2 of books, papers, documents, or other pertinent data, in any disciplinary
3 matters, or in any case wherever a violation of this Chapter is alleged. Upon
4 failure or refusal to comply with any such order of the Board, or upon failure
5 to honor its subpoena, as herein provided, the Board may apply to a court of
6 any jurisdiction to enforce compliance with same.

7 (d) The Board, in the name of Guam, may apply for relief by
8 injunction in the Superior Court, without bond, to enforce the provisions of
9 this Chapter, or to restrain any violation thereof. In such proceedings, it
10 shall *not* be necessary to allege or prove, either that an adequate remedy at
11 law does *not* exist, or that substantial or irreparable damage would result
12 from the continued violation thereof. The members of the Board shall *not* be
13 personally liable under these proceedings.

14 (e) The Board *shall* have prepared and *shall* adopt a set of rules for
15 professional conduct, which *shall* be binding upon persons registered under
16 this Chapter, and which *shall* be made known in writing to every registrant
17 and applicant for registration under this Chapter, and which *shall* be
18 published in the roster provided for in §32112 of this Chapter. The Board
19 may revise and amend these rules for professional conduct from time to time
20 and *shall* forthwith notify each registrant in writing of such revisions or
21 amendments.

22 (f) The adoption and amendment of such rules and regulations and
23 rules of procedure and rules of professional conduct *shall* be in accordance
24 with the provisions of the Administrative Adjudication Law.

25 (g) The Board may subject an applicant for registration to such
26 examinations, as may be provided for in the rules and regulations, to

1 determine his qualifications.

2 (h) The Board *shall* encourage private professional engineering,
3 architectural, landscape architectural, and land surveying societies to
4 conduct seminars to prepare applicants for the examinations and *shall* assist
5 in the coordination of the seminars.

6 (i) The Board *shall* have the power and authority to require a
7 demonstration of continuing professional competency of engineers,
8 architects, landscape architects and land surveyors as a condition of renewal
9 or relicensure.

10 (j) The Board *shall* have the authority for citation and fining
11 persons and business entities engaged in the unlawful practice of
12 engineering, architecture, landscape architecture and land surveying who are
13 *not* licensed or authorized in this jurisdiction, in accordance with §§ 32121
14 and 32122, and as provided by law.

15 (k) The Board *shall* maintain the PEALS Revolving Fund within
16 the cognizance of the members of the Board to continue to manage the day-
17 to-day financial obligations of the Board. Such revolving fund *shall* be
18 maintained separate and apart from other funds of the government of Guam,
19 and independent records and accounts *shall* be maintained in connection
20 therewith, as prescribed by the Chairman and members of the Board.
21 Furthermore, said Fund *shall* be subject to an annual audit by an independent
22 auditor.

23 (l) The Board *shall* have the power to appoint committees to assist
24 the Board's efforts in carrying out the responsibilities of this Chapter.

25 (m) The Board *shall* have the power to adopt and collect fees in
26 amounts necessary to enable the Board to carry out its function under this

1 Chapter.

2 (n) The Board *shall* retain and exercise all administrative and civil
3 rights and remedies commonly available to agencies in the jurisdiction. *No*
4 action or other legal proceedings for damages shall be instituted against the
5 Board, or against any Board Member or employee or agent of the Board, for
6 any act done in good faith and in the intended performance of any power
7 granted under this Chapter, or for any neglect or default in the performance
8 or exercise in good faith of any such duty or power.

9 **§32110. Records and Reports.** (a) The Board *shall* keep a
10 record of its proceedings and of all applications for registration, which
11 record *shall* show:

- 12 (1) the applicant's name, age and last known address;
- 13 (2) the date of the application;
- 14 (3) the applicant's place of business;
- 15 (4) the applicant's education, experience and other qualifications;
- 16 (5) the type of examination required;
- 17 (6) whether or not the applicant was rejected;
- 18 (7) whether or not a certificate of registration was granted;
- 19 (8) the date of the action by the Board; and
- 20 (9) such other information as may be deemed necessary by the
21 Board.

22 (b) The record of the Board *shall* be *prima facie* evidence of the
23 proceedings of the Board, and a transcript thereof, duly certified by the
24 Secretary under seal, *shall* be admissible as evidence with the same force
25 and effect as if the original were produced.

26 (c) At the end of every fiscal year, the Board *shall* prepare and

1 submit to *I Maga'lahañ Guåhan* (Governor) and to *I Liheslaturan Guåhan*,
2 *no later than* the first day of November, a report of its transactions of the
3 preceding year, and *shall* transmit to them a complete statement of the
4 receipts and expenditures of the Board, attested by affidavits of its Chairman
5 and its Secretary/Treasurer.

6 (d) Board records and papers of the following class are of a
7 confidential nature and are *not* public records: all examination materials for
8 examinations *not* yet given and examination solutions for which the grades
9 have *not* yet been published; file records of examination problem solutions;
10 letters of inquiry and reference concerning applicants; Board inquiry forms
11 concerning applicants; investigation files where any investigation is still
12 pending; and all other matters of like confidential nature.

13 **§32111. Receipts and Disbursements.** (a) Notwithstanding the
14 Central Accounting Act, all fees and money collected under the provisions
15 of this Chapter *shall* be deposited in a special fund known as the
16 *Professional Engineers, Architects and Land Surveyors Fund*. This fund
17 *shall* be kept in a bank licensed to do business on Guam and funds *shall* be
18 paid out *only* upon a request for payment or requisition submitted by the
19 Secretary/Treasurer or its personnel, and countersigned by the Chairman of
20 the Board. All monies in this fund are hereby specifically appropriated *only*
21 for the use of the Board in pursuit of its authority.

22 (b) The Board *shall* provide surety bonds in the name of Guam, on
23 behalf of the Chairman, the Secretary/Treasurer and the Executive Board
24 Administrator, in the sum of Thirty Thousand Dollars (\$30,000) each. The
25 premium on said bonds *shall* be regarded as proper and necessary expenses
26 of the Board.

1 (c) Upon an appropriation by *I Liheslaturan Guåhan* and subject
2 to any limitations which may be contained therein, the Board *shall* make
3 expenditures from this fund for any purpose which is approved by the Board
4 as reasonable and necessary for the proper performance of its duties under
5 this Chapter, including, the expenses of the Board delegates to meetings of,
6 and the membership fees to, the National Council of Examiners for
7 Engineering and Surveying and any of its subdivisions, the National Council
8 of Architectural Registration Boards and any of its subdivisions, and the
9 Council of Landscape Architectural Registration Boards and any of its
10 subdivisions.

11 (d) The Board *shall* employ in the classified positions an Executive
12 Board Administrator, Administrative Assistant, Board Investigator and other
13 administrative staff as are necessary for the proper performance of its work.
14 Salaries and other terms of compensation for each Board staff position *shall*
15 be determined by the Department of Administration. Payments of expenses
16 and salaries pursuant to the administration of this Chapter may *not* exceed
17 available funds of the Board.

18 (e) The Chairman of the Board is the designated Certifying Officer
19 and all expenditures from the fund *shall* be certified by the Chairman of the
20 Board. Under *no* circumstance shall the amount of warrants issued in
21 payment of the expenses and compensation provided for in this Chapter
22 exceed the amount of money collected.

23 (f) The Board *shall* adopt rules or regulations to provide for an
24 annual budget, an accounting procedure, and the fees for application,
25 registration, examination, re-examination, reciprocity, renewal of
26 registration, temporary permits, corporation permits, replacement of

1 certificates, reconsideration of application, and other services.

2 (g) The Board *shall* maintain membership in NCARB, NCEES and
3 its subdivisions, and pay the necessary costs thereof.

4 **§32112. Roster.** A complete roster showing the names and last
5 known addresses of all registered engineers, architects, landscape architects,
6 land surveyors, and business entities *shall* be published by the Secretary of
7 the Board annually, *no later than* the last day of the third month of each
8 year, and *shall* include each registrant's certificate or registration number.
9 The roster *shall* be in non-editable electronic format which is printable and
10 available via the internet. Notice of the publication and availability of the
11 roster *shall* be mailed to each person so registered, and paper copies of the
12 roster shall be placed on file with *I Maga'lahañ Guåhan*, the Speaker of *I*
13 *Liheslaturan Guåhan*, and other state and territorial boards, and with each
14 department and agency of the government of Guam.

15 **§32113. General Requirements for Registration.** (a) *No* person
16 shall be eligible for admission to the examination for registration for
17 professional engineer, architect, landscape architect or land surveyor, *or* for
18 enrollment as an engineer intern or land surveyor intern, under this Chapter
19 unless he:

20 (1) is a citizen of the United States, or a legally admitted alien
21 authorized to work in the United States;

22 (2) is of good moral character and repute.

23 (3) meets the professional qualifications prescribed by this Chapter;
24 and

25 (4) submits five (5) references with the applicant's application for
26 registration as a professional engineer, architect, landscape architect

1 or land surveyor, three (3) of which *shall* be from practitioners
2 registered in the discipline in which he seeks registration and having
3 personal knowledge of his experience in that discipline, or in the case
4 of an application for certification as an engineer intern or land
5 surveyor intern, by three (3) character references.

6 (b) The following *shall* be considered as minimum evidence
7 satisfactory to the Board that the applicant is qualified for registration:

8 (1) as a Professional Engineer:

9 (A) Licensure or Registration by Examination — An
10 Engineer Intern with a specific record of an additional four (4) years
11 or more of progressive experience on engineering projects of a grade
12 and character which indicates to the Board that the applicant may be
13 competent to practice engineering, at least one (1) year of which *shall*
14 have been under the supervision of a registered professional engineer,
15 *shall* be admitted to a current form of examination in the principles
16 and practices of engineering, and in the case of specific engineering
17 disciplines, other examinations as prescribed in the by-laws. (Upon
18 passing such examination(s), the applicant *shall* be granted a
19 certificate of registration to practice engineering on Guam, provided
20 the applicant is otherwise qualified.)

21 (B) Graduation, Experience and Examination — A graduate
22 of an engineering or related science curriculum of four (4) years or
23 more, other than the ones approved by the Board as being of
24 satisfactory standing, and with a specific record of eight (8) years or
25 more of progressive experience, at least two (2) years of which *shall*
26 have been under the supervision of a registered engineer on projects

1 of a grade and character which indicates to the Board that the
2 applicant may be competent to practice engineering, *shall* be admitted
3 to a current form of examination in the fundamentals of engineering
4 and a current form of examination in the principles and practice of
5 engineering as prescribed in the by-laws. Upon passing such
6 examination, the applicant *shall* be granted a certificate of registration
7 to practice engineering on Guam, provided the applicant is otherwise
8 qualified.

9 (C) A Non-graduate from a Technical Curriculum — A non-
10 graduate of an engineering or related science curriculum of four (4)
11 years or more, with a specific record of three (3) years or more in
12 such a curriculum plus twelve (12) years or more of progressive
13 experience on engineering projects, four (4) years of which must have
14 been under the supervision of a registered engineer, and of which at
15 least six (6) years have been in responsible control of engineering
16 projects of a grade and character which indicates to the Board that the
17 applicant may be competent to practice engineering, *shall* be admitted
18 to a current form of examination in the fundamentals of engineering
19 and the principles and practice of engineering as prescribed in the by-
20 laws. Upon passing such examination, the applicant *shall* be granted
21 a certificate of registration to practice engineering on Guam, provided
22 the applicant is otherwise qualified.

23 (D) Licensure or Registration by Comity or Endorsement —
24 A person whose qualifications meet the requirements of this Chapter
25 may, upon application, be registered as a professional engineer
26 identical to his active engineer registration in other jurisdictions *if* the

1 person meets all the requirements below:

2 (i) the applicant holds a current certificate of
3 registration in the practice of engineering issued by a proper
4 authority of a jurisdiction or possession of the United States, the
5 District of Columbia or any foreign country, based on
6 requirements that do *not* conflict with the provisions of this
7 Chapter from which a certificate of registration is recognized by
8 the National Council of Examiners for Engineering and
9 Surveying and possessing credentials that are, in the judgment
10 of the Board, of a standard *not* lower than specified in the
11 applicable section of this Chapter in effect in Guam at the time
12 such certificate was issued, may, upon application, which may
13 include a Council Record with NCEES, be registered or
14 licensed without further examination, except as required to
15 present evidence of knowledge of statutes, rules, and design
16 requirements unique to this jurisdiction, provided that:

17 (ii) he holds a valid certificate issued by the
18 Committee on National Council of Engineering Certification of
19 the National Council of Examiners for Engineering and
20 Surveying;

21 (iii) the applicant passes the California Special Civil
22 Seismic examination (for Civil Engineering applicants *only*);

23 (iv) the applicant passes the Fundamentals of
24 Engineering examination (for applicants with Fundamentals of
25 Engineering waivers from other jurisdictions); and

26 (v) the applicant maintains current registration with at

1 least one (1) other jurisdiction, the District of Columbia, a
2 territory or a possession of the United States.

3 (vi) A person holding an active Council Record with
4 the NCEES, whose qualifications as evidenced by the Council
5 Record meet the requirements of this Chapter, may, upon
6 application, be licensed or registered without further
7 examination, except as required to examine the applicant's
8 knowledge of statutes, rules and design requirements unique to
9 this jurisdiction, provided the applicant passes the California
10 Special Civil Seismic (CSCS) examination (for Civil
11 Engineering applicants *only*).

12 (E) Engineering Teaching — Engineering teaching in a
13 college or university offering an approved engineering curriculum of
14 four (4) years or more may satisfy only a portion of the required
15 engineering experience.

16 (2) As an Engineer Intern:

17 (A) A college senior or a graduate of an engineering
18 curriculum of four (4) years or more, accredited by EAC/ABET, or
19 the equivalent, *shall* be admitted to the current form of examination in
20 the Fundamentals of Engineering prepared and furnished by NCEES.
21 Upon passing such examination and providing proof of graduation,
22 the applicant *shall* be certified or enrolled as an engineer intern, if the
23 applicant is otherwise qualified.

24 (B) Experience and Examination — An applicant with a
25 record of six (6) or more years of experience in engineering work of a
26 grade and character satisfactory to the Board, and who passes the

1 examination as prescribed in the by-laws *shall* be certified or enrolled
2 as an engineer intern, if the applicant is otherwise qualified.

3 (C) Graduation, Experience and Examination — A graduate
4 of an engineering or related science curriculum of four (4) years or
5 more, other than the ones approved by the Board as being of
6 satisfactory standing, *shall* be admitted to an examination as
7 prescribed in the by-laws. Upon passing such examination, the
8 applicant *shall* be certified or endorsed as an engineer intern, if the
9 applicant is otherwise qualified.

10 (3) As an Architect:

11 (A) Education, Experience and Examination — A graduate
12 of an NAAB accredited program from a school of architecture
13 approved by the Board as being of satisfactory standing and with at
14 least three (3) years of progressive experience satisfactory to the
15 Board in architectural work covering the major categories of
16 architectural practice, at least two (2) years of which *shall* have been
17 under the supervision of a registered architect, *shall* be eligible for a
18 current form of examination as prescribed in the rules and regulations.
19 Upon passing such examination, the applicant *shall* be granted a
20 certificate of registration to practice architecture in Guam, if the
21 applicant is otherwise qualified.

22 (i) Effective June 1, 2009, a new or inactive candidate
23 applying to the Board for eligibility evaluation for the
24 Architect Registration Examination (ARE) *shall*, prior to
25 registration or licensure, complete the Intern Development
26 Program (IDP) of the National Council of Architectural

1 Registration Boards (NCARB), as defined herein and in the
2 rules and regulations set forth, and the most recent or current
3 form of IDP guidelines prepared and prescribed by the
4 NCARB. The IDP requirement does *not* apply to a candidate
5 who: (aa) was determined by the Board to be eligible on or
6 before May 31, 2009 and who is active in the examination
7 process; or (bb) has completed all the necessary education
8 equivalents prior to June 1, 2009, who has submitted a
9 completed application for eligibility evaluation to the Board
10 that is postmarked on or before May 31, 2009, and who has
11 been determined by the Board to be eligible.

12 (ii) A new or inactive candidate *shall* submit an
13 application form, as prescribed and furnished by the Board,
14 and accompanied by such supporting documents required
15 herein. Such supporting documents *shall* include the
16 candidate's current and valid IDP file transmitted by NCARB.

17 (iii) As a candidate acquires additional work
18 experience, it is the candidate's responsibility to ensure that
19 his/her employer(s) complete Employment Verification Forms
20 covering the work experience gained with that employer and
21 that the forms are submitted to the Board. Reporting *shall* be
22 as per most current NCARB policies and procedures.

23 (iv) Completion of the IDP *shall* fulfill the lawful
24 experience requirement provided in this Chapter, and in the
25 rules and regulations.

26 (B) Experience and Examination — An applicant having

1 eight (8) years of architectural training or educational experience
2 satisfactory to the Board, of which a minimum of three (3) years *shall*
3 be experience covering the major categories of architectural practice
4 under the supervision of a registered architect, *shall* be eligible for a
5 current form of examination as prescribed in the rules and regulations.
6 Upon passing such examination, the applicant *shall* be granted a
7 certificate of registration to practice architecture on Guam, if the
8 applicant is otherwise qualified.

9 (C) Licensure or Registration by Comity or Endorsement —

10 A person *shall* be licensed or registered without further examination,
11 if that person:

12 (i) holds a current and valid registration issued by a
13 registration authority recognized by the Board; or

14 (ii) holds a National Council of Architectural
15 Registration Board's Record; and

16 (iii) files his application with the Board, upon a form
17 prescribed and furnished by the Board, containing such
18 information satisfactory to the Board, concerning the person, as
19 the Board considers pertinent.

20 (4) As a Landscape Architect:

21 (A) Licensure or Registration by Comity or Endorsement-A
22 person *shall* be registered without further examination, if that person:

23 (i) holds a current and valid registration to engage in the
24 practice of landscape architecture issued by a proper authority
25 of a state or jurisdiction or possession of the United States, the
26 District of Columbia or any foreign country, has successfully

1 passed a Council of Landscape Architectural Registration
2 Boards (CLARB) landscape architectural registration
3 examination (LARE); or

4 (ii) holds a current and active Council Record issued by
5 the CLARB; and

6 (iii) files his application on a form prescribed and
7 furnished by the Board, containing such information
8 satisfactory to the Board, concerning the person, as the Board
9 considers pertinent.

10 (5) As a Land Surveyor:

11 The evaluation of a professional surveyor applicant's qualifications
12 involves consideration of education, technical, and surveying experience,
13 exhibits of surveying projects with which the applicant has been associated,
14 recommendations by references, and a review of these categories during the
15 interview if the Board deems it necessary. The following *shall* be
16 considered as minimum evidence to the Board that the applicant is qualified
17 for registration or licensure as a professional surveyor:

18 (A) Licensure or Registration by Examination — A
19 Surveyor Intern with a specific record of four (4) years or more of
20 combined office and field experience satisfactory to the Board, in
21 surveying, of which a minimum of three (3) years' progressive
22 experience has been on surveying projects under the supervision of a
23 professional surveyor, *shall* be eligible to take the current form of
24 examination prepared and furnished by the NCEES in the principles
25 and practice of land surveying, and in Guam Land Matters as
26 prescribed in the by-laws. Upon passing such examination, the

1 applicant *shall* be granted a certificate of registration to practice land
2 surveying on Guam, provided the applicant is otherwise qualified.

3 (B) Education, Experience and Examination — A graduate of
4 a surveying or related science curriculum of four (4) years or more,
5 other than the ones approved by the Board as being of satisfactory
6 standing, and with a specific record of an additional eight (8) years of
7 combined office and field experience satisfactory to the Board in land
8 surveying, of which a minimum of three (3) years experience has been
9 in responsible control of land surveying projects under the supervision
10 of a registered land surveyor, *shall* be admitted to a current form of
11 examination in the fundamentals of land surveying, in the principles
12 and practice of land surveying and in Guam Land Matters as
13 prescribed in the by-laws. Upon passing such examination, the
14 applicant *shall* be granted a certificate of registration to practice land
15 surveying on Guam, provided he is otherwise qualified.

16 (C) Experience and Examination — An applicant with a
17 specific record of twelve (12) years or more of practice in land
18 surveying, of which at least eight (8) years have been in responsible
19 control of important land surveying work under the supervision of a
20 registered land surveyor, and of a grade and character satisfactory to
21 the Board which indicates to the Board that the applicant may be
22 competent to practice land surveying, and who has passed an
23 examination in the fundamentals of land surveying, in the principles
24 and practice of land surveying and in Guam Land Matters, *shall* be
25 granted a certificate of registration to practice land surveying on
26 Guam, provided he is otherwise qualified.

1 (D) Licensure or Registration by Comity or Endorsement —

2 (i) A person holding a certificate of registration to
3 engage in the practice of land surveying issued by a proper
4 authority of a jurisdiction or possession of the United States or
5 the District of Columbia, or any foreign country, based on
6 requirements that do *not* conflict with the provisions of this
7 Chapter, and possessing qualifications that are, in the judgment
8 of the Board, *not* lower than that specified in the applicable
9 licensure act in effect in this jurisdiction at the time such
10 certificate was issued, may, upon application, which may
11 include a Council Record with the NCEES, be licensed without
12 further examination, except as required to present evidence of
13 knowledge of statutes, rules and surveying requirements unique
14 to this jurisdiction, provided, that the applicant *shall* be required
15 to pass a written examination of *not less than* four (4) hours
16 duration on Guam Land Matters, which *shall* include questions
17 on laws, procedures and practices pertaining to land surveying
18 on Guam.

19 (ii) A person holding an active Council Record with
20 the NCEES, whose qualifications as evidenced by the Council
21 Record, meet the requirements of this Chapter, may, upon
22 application, be licensed without further examination, except as
23 required to examine the applicant's knowledge of statutes, rules
24 and surveying requirements unique to this jurisdiction, provided
25 that the applicant *shall* be required to pass a written
26 examination of *not less than* four (4) hours duration on Guam

1 Land Matters, which shall include questions on laws,
2 procedures and practices pertaining to land surveying on Guam.

3 (E) Surveying Teaching —Surveying teaching in a college or
4 university offering an approved surveying curriculum of four (4) years
5 or more may be considered as land surveying experience satisfactory
6 to the Board.

7 (6) As a Land Surveyor Intern:

8 (A) Education and Examination — A college senior or a
9 graduate of surveying curriculum of four (4) years or more, approved
10 by the Board as being of satisfactory standing, *shall* be admitted to a
11 current form of examination in the fundamentals of land surveying, as
12 prescribed in the by-laws. Upon passing such examination, the
13 applicant *shall* be certified or enrolled as a land surveyor intern, if he
14 is otherwise qualified.

15 (B) Education, Experience and Examination — An applicant,
16 upon satisfactory completion of a land surveying or related science
17 curriculum of two (2) years or more, and with a specific record of an
18 additional (4) years of combined office and field experience in land
19 surveying satisfactory to the Board, *shall* be admitted to a current
20 form of examination in the fundamentals of land surveying, as
21 prescribed in the by-laws. Should the applicant fail to pass the
22 fundamentals of land surveying examination on two (2) occasions, the
23 applicant *shall* be required to complete a refresher course satisfactory
24 to the Board before being readmitted for examination. Upon passing
25 such examination, the applicant *shall* be certified or enrolled as a land
26 surveyor intern, if he is otherwise qualified.

1 **§32114. Application and Registration Fees.** (a) Application for
2 registration as a professional engineer, architect, landscape architect or land
3 surveyor, or for certification as an engineer intern or land surveyor intern, or
4 for certificates of authorization, *shall* be on a form prescribed and furnished
5 by the Board. It *shall* contain statements made under oath showing the
6 applicant's education and a detailed summary of his technical and
7 engineering, architectural, landscape architectural and land surveying
8 experience, and *shall* include the names and complete mailing addresses of
9 his references, none of whom is a current member of the Board, as required
10 in §32113 of this Chapter.

11 The Board may accept the certified information contained in a valid
12 Council Record issued by the National Council of Examiners for
13 Engineering and Surveying Committee on National Engineering
14 Certification for professional engineer applicants, or a valid Council Record
15 issued by the National Council of Architectural Registration Boards for
16 architect applicants in lieu of the same information that is required on the
17 form prescribed and furnished by the Board.

18 (b) The application (for individuals and COAs), examination, and
19 registration (for individuals and COAs) fees *shall* be prescribed by the Board
20 and *shall* be specified in the rules and regulations.

21 (c) *No* fee refund will be made after the application has been
22 received and acted upon by the Board, even if registration is denied.

23 **§32115. Examinations.** (a) The applicant may be subjected to
24 such examinations as may be deemed necessary to determine his
25 qualifications. The examinations will be held at such times and place as the
26 Board may direct.

1 (b) Examinations, as specified in the rules and regulations, may be
2 taken *only* after the applicant has met the other minimum requirements, as
3 provided for by §32113.

4 (c) A candidate failing an examination may apply for re-
5 examination, which may be granted upon payment of a fee established by the
6 Board.

7 (d) A candidate whose grade in a previous examination indicates
8 that he is unprepared may, at the discretion of the Board, be required to wait
9 one (1) year before being eligible for re-examination.

10 (e) The Board *shall* have prepared and adopted a syllabus for the
11 examinations in engineering, architecture, landscape architecture and land
12 surveying. It *shall* be published in brochure form and be available as a
13 handout to any person interested in being registered as a professional
14 engineer, architect, landscape architect or land surveyor.

15 (f) Members of the PEALS Board are prohibited from taking any
16 engineering, architecture, landscape architecture or land surveying
17 examination administered on Guam while serving on the Board. However,
18 members may take such in another jurisdiction and have the examination
19 scores accepted on Guam by the Board, so long as said examination does *not*
20 conflict with the provisions of this Chapter, and is of a standard *not* lower
21 than that of an examination for the same administered on Guam.

22 **§32116. Certificates — Seals.** (a) The Board *shall* issue to each
23 applicant meeting the requirements of this Chapter a certificate of
24 registration which gives the registrant proper authority to practice his
25 profession on Guam. The certificate of registration for a professional
26 engineer *shall* carry the designation “PROFESSIONAL ENGINEER”, and

1 *shall* also designate the branch in which he is authorized to practice. The
2 certificate of registration for an architect *shall* carry the designation
3 “REGISTERED ARCHITECT”, and the certificate of registration for a
4 Landscape Architect *shall* carry the designation “REGISTERED
5 LANDSCAPE ARCHITECT”, and the certificate of registration for a land
6 surveyor *shall* carry the designation “PROFESSIONAL LAND
7 SURVEYOR”. It *shall* give the full name of the registrant with his
8 registration number and shall be signed by the Chairman, the
9 Secretary/Treasurer and the Executive Board Administrator under the seal of
10 the Board.

11 A properly entitled and endorsed identification card *shall* be issued
12 with the certificate of registration and reissued thereafter, as prescribed by
13 §32117 of this Chapter, to each registrant upon payment of the renewal fee.

14 Every registered engineer, architect, landscape architect or land
15 surveyor having a place of business or employment within this jurisdiction
16 *shall* display his certificate of registration in a conspicuous place in such
17 place of business or employment.

18 (b) The issuance of a certificate of registration by the Board *shall*
19 be *prima facie* evidence that the person named therein is entitled to all the
20 rights, privileges, and responsibilities of an engineer, architect, landscape
21 architect or land surveyor while the said certificate remains unrevoked or
22 unexpired.

23 (c) The Board *shall* issue to each applicant meeting the
24 requirements of this Chapter a certificate of “engineer intern” or “land
25 surveyor intern”, as applicable. The certificate issued to the “engineer
26 intern” or “land surveyor intern” does *not* authorize the practice of

1 engineering or land surveying, and *only* indicates that his name has been
2 recorded by the Board as having passed the required examination.

3 (d) Each registrant hereunder *shall*, upon registration licensure,
4 have a seal of a design authorized by the Board, bearing the registrant's
5 name, registration number, and the designation, "Professional Engineer",
6 "Registered Architect", "Registered Landscape Architect", or "Professional
7 Land Surveyor". For Professional Engineers, the stamp or seal *shall* contain
8 the specific discipline for which he is authorized, the expiration date of the
9 registrant, or a space within which the expiration date must be written:

10 (1) The seal *shall* be an image, imprint or other medium
11 approved by the Board. Except for progress submittals, whenever the
12 seal is applied to a final work product, the registrant's written
13 signature, and date *shall* be signed adjacent to the seal with the
14 statement "*This work was prepared by me or under my responsible*
15 *control*". If the work product is *not* intended for construction, a
16 statement to that effect *shall* be placed on the document adjacent to
17 the seal. A facsimile signature will *not* be acceptable. Computer-
18 generated signatures and dates are *not* acceptable.

19 (2) Seals must be a permanent mark on the document being
20 sealed. The standard seal must be used on all original tracings,
21 blueprints, drawings, specifications, reports, and other documents
22 prepared by professional engineers, registered architects, registered
23 landscape architects or professional land surveyors.

24 (3) The seal and dated signature *shall* be placed on all
25 technical submissions, such as specifications, reports, plats, drawings,
26 plans, design information and calculations, whenever presented to a

1 client or any public or government agency, including government in-
2 house designs.

3 (4) The seal and dated signature *shall* be placed on all
4 original copies, tracings or other reproducible documents in such a
5 manner that the seal and signature will be reproduced. The
6 application of the registrant's licensee seal and signature *shall*
7 constitute certification that the work thereon was done by him or
8 under his responsible control. In the case of multiple sealings, the
9 first or title page *shall* be sealed and signed by all involved. In
10 addition, each sheet *shall* be sealed and signed by the registrant or
11 registrants responsible for each sheet. In the case of an authorized
12 firm, partnership or corporation, each sheet *shall* be sealed and signed
13 by the registrants involved. The Responsible Managing Employee
14 (RME) in charge of operations within the jurisdiction *shall* sign, seal,
15 and date the title or the first sheet.

16 (5) The seal and signature and date *shall* be used by
17 registrants *only* when the work being stamped was under the
18 registrant's complete direction and responsible control, provided, that
19 if the work was performed at an office outside of the locale in which
20 the registrant permanently resides, then the seal may be used *only* if
21 the registrant supervised the work on a full-time basis.

22 (6) In the case of temporary permit issued to a registrant
23 licensee of another state or jurisdiction, the registrant *shall* use his
24 state of registration seal and *shall* affix his signature and temporary
25 permit number and date of issue to all his work.

26 (7) It *shall* be unlawful for a registrant to affix or permit his

1 seal and signature, or facsimile thereof, to be affixed to any document
2 as above described after the expiration of a certificate, or for the
3 purpose of aiding or abetting any attempt to evade any provision of
4 this Chapter.

5 (8) Seals of Professional Engineers on Engineering
6 Documents:

7 (A) The seal of a professional engineer *shall* be placed
8 on each drawing, specification, plan, report or other document
9 which is in its final form and which involves the practice of
10 engineering as defined in this Chapter. A separate seal of a
11 professional engineer of the appropriate branch of engineering,
12 as such branches are designated on the various forms of
13 professional engineer registration certificates, and is required
14 for each portion of such document that involves a separate
15 branch of engineering, *except* as provided in sub-item (B) of
16 this item (8). For example, *except* as provided in sub-item (B)
17 of this item (8), so long as registration certificates classify “civil
18 engineering”, “structural engineering”, “mechanical
19 engineering” and “electrical engineering” as different branches
20 of engineering, the seal of a professional engineer of the civil
21 branch *shall* be required for each portion of an engineering
22 document involving civil work; the seal of a professional
23 engineer of the structural branch, or civil branch, *shall* be
24 required for each portion of an engineering document involving
25 structural work for any structure or building three (3) stories or
26 less in height; wherein the height of the stories shall be defined

1 as *not more than* twelve (12) feet, the seal of a professional
2 engineer of the structural branch *shall* be required for each
3 portion of an engineering document involving structural work
4 for any structure or building higher than three (3) stories; the
5 seal of a professional engineer of the mechanical branch *shall*
6 be required for each portion of an engineering document
7 involving mechanical work; and the seal of a professional
8 engineer of the electrical branch *shall* be required for each
9 portion of an engineering document involving electrical work.

10 (B) The requirement of a separate seal for each portion
11 of an engineering document involving a separate branch of
12 engineering is subject to the following exceptions:

13 (i) in the case of a document involving an
14 individual single family dwelling, two (2) family
15 dwellings, or two (2) family dwellings in a subdivision,
16 the seal of a professional engineer in the civil branch or
17 the seal of an architect, *shall* be sufficient;

18 (ii) in the case of a document involving work
19 incidental to the practice of engineering, the seal of any
20 professional engineer, regardless of his branch of
21 engineering, or the seal of an architect, *shall* be
22 sufficient.

23 (iii) the seal of a professional engineer of the
24 mechanical branch is sufficient for documents involving
25 plumbing work, air-conditioning and ventilation,
26 regardless of the height of a building;

1 (iv) in the case of document involving the design
2 of a fire sprinkler system, a seal of a professional
3 engineer in the fire protection branch *shall* be required.

4 (v) in the case of a document involving the
5 structural portion of a site adaptation of a pre-engineered
6 structure or building, the seal of a professional engineer
7 of either the civil branch or the structural branch is
8 sufficient; and

9 (vi) in the case of a document involving work for
10 which more than one (1) branch of engineering is
11 qualified, other than those types of work provided for in
12 sub-items (i), (ii), (iii), (iv), and (v) of this item (8), the
13 Board *shall* promulgate general guidelines for the sealing
14 of such a document. The guidelines *shall* reflect that
15 there are often broad overlaps between the authorized
16 practices of the various branches of engineering.

17 (9) Seals of Architects.

18 (A) All technical submissions, such as, drawings,
19 specifications, plans, reports or other documents, prepared by a
20 registered architect or under his responsible control *shall* bear his seal,
21 which *shall* mean that the architect was in responsible control over the
22 content of such technical submissions during their preparation, and
23 has applied the required professional standard of care. An architect
24 may sign and seal technical submissions, *only* if the technical
25 submissions were: (i) prepared by the architect, or; (ii) prepared by
26 persons under the architect's responsible control.

1 (B) Notwithstanding the provisions of sub-item (A) of this
2 item (9), in the case of a document involving an individual single
3 family dwelling, a seal of either an architect or a professional engineer
4 of the civil engineering branch *shall* be sufficient. Documents
5 involving two (2) family dwellings, or a subdivision development
6 with single family and two (2) family dwellings, the seal of a
7 professional engineer of the civil engineering branch is sufficient.

8 (C) The requirement contained in sub-item (A) of this item
9 (9) does *not* affect the need for a seal of a professional engineer of the
10 appropriate branch of engineering for each portion of a document that
11 involves a system of a separate branch of engineering.

12 (10) Seals of Professional Land Surveyors:

13 (A) The seal of a Land Surveyor *shall* be placed on each
14 drawing, plan, property metes and bounds descriptions, computation
15 sheets, reports and other documents in their final form, which involve
16 the practice of land surveying, to wit:

17 (i) any office offering to perform land surveys must
18 have a licensed professional land surveyor in charge of the
19 operations, be available on a full time basis with a 75%
20 physical presence, and must have full control of the survey
21 operation;

22 (ii) to further insure that field conditions of survey
23 documents are in full conformance with such survey, the
24 surveyor of record is required to establish a field reference point
25 from which building corners, setbacks and other pertinent
26 points may be derived if and when improvements are

1 contemplated on a property. This reference point must remain
2 in place and be protected from damage for the duration of the
3 construction of a project. Such reference point must be
4 indicated as referenced on the site plan of the project. It will be
5 the surveyor's responsibility to follow setbacks defined in the
6 Zoning Law, as may be required for building permit purposes;
7 and

8 (ii) all documents prepared and certified by a
9 professional land surveyor *shall* be stamped with a statement
10 under the seal stating: "I hereby certify that this map was
11 prepared by me or under my direct supervision, that it is based
12 on a field survey made in (insert date), in accordance with all
13 applicable laws and regulations, and that I am responsible for
14 the accuracy of all data and information shown hereon. I also
15 certify that all the monuments are of the character and occupy
16 the positions indicated in this map".

17 (11) With respect to work incidental to the practice of engineering
18 and work incidental to the practice of architecture, the Board *shall*
19 promulgate general guidelines, which *shall* include examples of incidental
20 work, and which *shall* set limitations on the permissible extent of such
21 incidental work. Such guidelines *shall* be consistent with items (8) and (9)
22 of this Subsection (d), including the requirements in those items for separate
23 seals per branch of engineering and for the seal of an architect, in the case of
24 a building which has as its principal purpose human occupancy or
25 habitation.

26 (12) An Engineer, Architect, Landscape Architect and Land

1 Surveyor *shall* provide construction contract administration when
2 applications are made for building or construction permits involving the
3 public safety and health. The term “construction contract administration”
4 means making periodic visits to the site by a registered engineer, architect,
5 landscape architect or land surveyor, or authorized representatives as the
6 case may require, to observe the progress and quality of the executed work
7 and to determine, in general, if the work is proceeding in accordance with
8 the contract documents. It is *not* required that they make exhaustive or
9 continuous on-site inspections to check the quality or quantity of the work,
10 nor is it intended that the engineer, architect, landscape architect and land
11 surveyor be responsible for construction means, methods, techniques,
12 sequences or procedures, or for safety precautions and programs in
13 connection with the work.

14 (13) Building Official: The Building Official charged with the
15 responsibility of issuing building permits, must be in possession of a
16 signed/sealed set of plans and specifications.

17 **§32117. Expirations and Renewals.** (a) Certificates of
18 Registration *shall* expire on the last day of the month of April, and
19 Certificates of Authorization for corporations, partnerships, proprietorships
20 and associations shall expire on the last day of the month of October of each
21 year, following their year of issuance, and become invalid after that date,
22 unless renewed by submission of appropriate forms, as prescribed by the
23 Board.

24 (1) Renewals of Certificates of Authorization for
25 corporations, partnerships, limited liability companies, proprietorships
26 and associations *shall* require a clearance form from the Department

1 of Revenue and Taxation that they are current on their taxes with the
2 government of Guam, or have an agreement with the Department of
3 Revenue and Taxation for their back taxes. Such clearance *shall* be
4 submitted with their renewal application form.

5 (2) Expired Certificates of Registration may be renewed at
6 any time within sixty (60) days following the expiration date without
7 submission of an “Application for Reinstatement”, upon payment of
8 the renewal fee plus the penalty fee as prescribed by the Board. Any
9 individual registrant who fails to renew within (60) sixty days after
10 the date of expiration, *shall* be required to apply for a reinstatement of
11 registration, and pay the prescribed (back registration and penalty)
12 fees as prescribed by the Board.

13 (3) Certificates of Authorization may be renewed anytime
14 prior to the expiration date. A Certificate of Authorization is
15 considered null and void if *not* renewed before the expiration date.

16 (b) It *shall* be the duty of the Secretary/Treasurer of the Board to
17 notify every person registered under this Chapter, and every corporation,
18 partnership, limited liability company, proprietorship and association
19 holding a Certificate of Authorization under this Chapter, of the date of the
20 expiration of said Certificate of Registration or Certificate of Authorization,
21 and the amount of the fee required for its renewal. Such notice *shall* be
22 mailed to the registrant, or corporation, partnership, proprietorship or
23 association at his/her or its last known address at least one (1) month in
24 advance of the date of the expiration of said certificate. Renewal may be
25 effected at any time prior to or during the month of September by payment
26 of a fee as established by the Board.

1 (c) A Certificate of Registration *shall* expire upon the death of a
2 registrant.

3 **§32118. Replacement of Certificates.** (a) Replacement of
4 Certificates. A new Certificate of Registration, to replace any certificate
5 lost, destroyed, or mutilated, may be issued, subject to the rules of the Board
6 and upon payment of the prescribed fee, and such certificate *shall* be
7 stamped or marked “duplicate”.

8 (b) Re-issuance of Certificates. The Board, for reasons it deems
9 sufficient, may reissue a Certificate of Registration to any person whose
10 certificate has been revoked, provided, that four (4) or more members of the
11 Board vote in favor of such re-issuance.

12 **§32119. Public Works.** Government employees shall *not* engage
13 in the practice of engineering, architecture, landscape architecture or land
14 surveying, involving either public or private property, without the project
15 being under the direct charge and supervision of a registered engineer,
16 architect, landscape architect or land surveyor, as provided by this Chapter.

17 **§32120. Disciplinary Action — Revocation, Suspension,
18 Refusal to Issue, Restore, or Renew, Probation, Fine and/or Reprimand.**

19 (a) The publication of the rules of conduct for professional engineers,
20 architects, landscape architects and land surveyors, as provided for in
21 §32109 of this Chapter, *shall* constitute due notice to all registrants.

22 (b) The Board *shall* have the power, duty and authority to suspend,
23 refuse to renew, or revoke a Certificate of Registration, or a Certificate of
24 Authorization, or to reprimand, fine or any combination thereof, or levy a
25 civil penalty in an amount determined by the Board of not more than Five
26 Thousand Dollars (\$5,000) for each offense against any engineer, architect,

1 landscape architect, land surveyor or any individual and/or business firm
2 who is found guilty of:

3 (1) the practice of any fraud or deceit in obtaining or
4 attempting to obtain or renew a Certificate of Registration or
5 Certificate of Authorization;

6 (2) any gross negligence, incompetency or misconduct in the
7 practice of engineering, architecture, landscape architecture or land
8 surveying;

9 (3) conviction of, or entry of a plea of guilty or *nolo*
10 *contendere* to, any crime which is a felony, whether related to practice
11 or not; and conviction of, or entry of a plea of guilty to, any crime,
12 whether a felony, misdemeanor, or otherwise, an essential element of
13 which is dishonesty, or which is directly related to the practice of
14 engineering, architecture, landscape architecture or surveying;

15 (4) any felony or any crime involving moral turpitude, in
16 which case a certified copy of the record of conviction *shall* be
17 conclusive evidence thereof;

18 (5) failure to comply with any of the provisions of this
19 Chapter, or violation of any of the rules or regulations pertaining
20 thereto;

21 (6) discipline by another jurisdiction, territory, the District of
22 Columbia, foreign country, the United States government, or any
23 governmental agency, if at least one (1) of the grounds for discipline
24 is the same or substantially equivalent to those contained in this
25 Section;

26 (7) failure to provide information requested by the Board as

1 a result of a formal or informal complaint to the Board, which would
2 indicate a violation of this Chapter;

3 (8) knowingly making false statements or signing false
4 statements, certifications, or affidavits, to include payment;

5 (9) aiding or assisting another person in violating any
6 provision of this Chapter or the rules or regulations pertaining thereto;

7 (10) violating any terms of probation imposed by the Board or
8 using a seal, or practicing engineering, architecture, landscape
9 architecture or land surveying while the registrant's license is
10 suspended, revoked or non-renewed;

11 (11) signing, affixing or permitting his seals to be affixed to
12 any specifications, reports, drawings, plans, plats, design information,
13 construction documents or calculations, surveys, or revisions thereof,
14 which have *not* been prepared by the licensee or under the licensee's
15 responsible control;

16 (12) engaging in dishonorable, unethical, or unprofessional
17 conduct of a character likely to deceive, defraud, or harm the public;

18 (13) providing false testimony or information to the Board;

19 (14) habitual intoxication or addiction to the use of drugs or
20 alcohol so as to endanger health, safety and interest of the public by
21 impairing skill and care in professional services; or

22 (15) providing engineering, architectural, landscape
23 architectural or surveying services outside of the licensee's areas of
24 competence. Licensees must demonstrate by education or experience
25 that they are competent to practice in the subject field in question.

26 (c) A record of conviction of any of the offenses provided in

1 paragraph (b)(1) through (b)(15) above *shall* be conclusive evidence thereof.

2 (d) In addition to any other penalty provided in this Section, the
3 Board *shall* have the power to: revoke, suspend, place on probation, fine
4 and/or reprimand, or refuse to issue, restore or renew, the Certificate of
5 Authorization of any firm, where one (1) or more of its officers, directors,
6 partners, members, or managers have been found guilty of any conduct
7 which would constitute a violation under the provisions of this Section.

8 (e) In addition to or in lieu of any other penalty provided in this
9 Section, any licensee who violates a provision of this Chapter, or any rule or
10 regulation pertaining thereto, a civil penalty in an amount determined by the
11 Board of *not more than* \$5,000 for each offense.

12 (1) Each day of continued violation may constitute a separate
13 offense.

14 (2) In determining the amount of civil penalty to be assessed
15 pursuant to this Section, the Board may consider such factors as the
16 following:

17 (A) whether the amount imposed will be a substantial
18 economic deterrent to the violation;

19 (B) the circumstances leading to the violation; and

20 (C) the severity of the violation and the risk of harm to the
21 public.

22 **§32121. Disciplinary Action Procedures.** (a) Any person may
23 press charges of fraud, deceit, gross negligence, incompetence, misconduct,
24 or violation of the rules of professional conduct, against any individual
25 registrant, or against any corporation, limited liability company, partnership
26 or association holding a Certificate of Authorization. Such charges *shall* be

1 in writing and shall be sworn to by the person or persons making them and
2 shall be filed with the Secretary/Treasurer of the Board. The Board may
3 summarily take action, without compliance with the Administrative
4 Adjudication Law, to suspend, revoke, or deny a Certificate of Registration
5 or Authorization from any individual registrant, corporation, partnership or
6 association, when it has received or obtained either a record of conviction or
7 notice via news media and/or radio that said registrant, corporation, limited
8 liability company, partnership or association has been found guilty of a
9 crime.

10 (b) All charges, unless dismissed by the Board as unfounded or
11 trivial, *shall* be heard by the Board within three (3) months after the date on
12 which the charges have been determined to have merit by the Executive
13 Board Administrator. At the Board's discretion, an extension of time *up to*
14 an additional three (3) months for the hearing may be granted upon the
15 request of either party. The hearing *shall* be conducted in accordance with
16 the requirements of the Administrative Adjudication Law.

17 (c) The time and place for said hearing *shall* be fixed by the Board,
18 and a copy of the charges, together with a notice of the time and place of
19 hearing, *shall* be served on or mailed to the individual registrant, or
20 corporation, partnership, limited liability company or association holding a
21 Certificate of Authorization, or to his designated counsel in accordance with
22 the requirements of the Administrative Adjudication Law. At any hearing,
23 the accused *shall* have the right to appear in person or by counsel, or both, to
24 cross-examine witnesses in his or its defense, and to produce evidence and
25 witnesses in his own defense. If the accused person fails or refuses to
26 appear, the Board may proceed to hear and determine the validity of the

1 charges.

2 (d) If, after such hearing, a majority of the Board votes in favor of
3 sustaining the charges, the Board shall reprimand, suspend, refuse to renew,
4 or revoke the Certificate of Registration or Certificate of Authorization.

5 (e) Any individual registrant having a Certificate of Registration,
6 or corporation, partnership, limited liability company or association holding
7 a Certificate of Authorization, aggrieved by any action of the Board in
8 denying, suspending, refusing to renew or revoking his Certificate of
9 Registration, or its Certificate of Authorization, may appeal therefrom to the
10 proper court under normal civil procedures.

11 (f) The Board may, upon petition of a formerly licensed individual
12 registrant or corporation, partnership or association, reissue a Certificate of
13 Registration or Authorization, provided that *not less than* four (4) members
14 of the seven (7) member Board, vote in favor of such issuance.

15 (g) No Certificate of Registration or Authorization shall be
16 suspended, revoked or denied renewal by the Board, except after a hearing,
17 in accordance with the provisions of the Administrative Adjudication Law.

18 **§32122. Violations and Penalties.** (a) Civil Penalties for Non-
19 Licensees:

20 (1) In addition to any other provision of law, the Board may
21 enter an order assessing a civil penalty against any person, firm,
22 partnership, limited liability company or corporation found guilty by
23 the Board of:

24 (A) engaging in the practice or offer to practice
25 engineering, architecture, landscape architecture or land
26 surveying in this jurisdiction without being licensed in

1 accordance with the provisions of this Chapter;

2 (B) using or employing the words “engineer”,
3 “engineering”, “architect”, “architecture”, “landscape
4 architect”, “landscape architecture”, “surveyor”, “surveying”,
5 or any modification or derivative thereof in its name or form of
6 business activity, except as authorized in this Chapter;

7 (C) presenting or attempting to use the certificate of
8 licensure or the seal of another licensed engineer, architect,
9 landscape architect or land surveyor;

10 (D) giving false or forged evidence of any kind to the
11 Board or any member thereof in obtaining or attempting to
12 obtain a certificate of licensure;

13 (E) falsely impersonating any other licensed engineer,
14 architect, landscape architect or land surveyor of like or
15 different name; or

16 (F) using or attempting to use an expired, suspended
17 or revoked or non-existent certificate of licensure or
18 authorization.

19 (2) A civil penalty levied under this Section may not be less
20 than \$5,000 for each offense.

21 (3) Each day of continued violation may constitute a separate
22 offense.

23 (4) In determining the amount of civil penalty to be assessed
24 pursuant to this Section, the Board may consider such factors as the
25 following:

26 (A) whether the amount imposed will be a substantial

1 economic deterrent to the violation;

2 (B) the circumstances leading to the violation;

3 (C) the severity of the violation and the risk of harm to
4 the public;

5 (D) the economic benefits gained by the violator as a
6 result of non-compliance; and

7 (E) the interest of the public.

8 (5) Before issuing an order under this Section, the Board
9 *shall* provide the person written notice and opportunity to request a
10 hearing on the record, which need *not* be in accordance with the
11 provisions of the Administrative Adjudication Law.

12 (6) A person aggrieved by the levy of a civil penalty under
13 this Section, may file an appeal with the Superior Court for judicial
14 review of the penalty aforementioned.

15 (7) *If* a person fails to pay a civil penalty within thirty (30)
16 days after the entry of an order under Subsection (a)(1) of this
17 Section, *or if* the order is stayed pending an appeal, within ten (10)
18 days after the court issues a final judgment in favor of the Board of an
19 order appealed in accordance with Subsection (a)(6) of this Section,
20 the Board *shall* notify the Attorney General. The Attorney General
21 may commence a civil action to recover the amount of the penalty,
22 plus attorney's fees and costs.

23 (8) An action to enforce an order under this Section may be
24 combined with an action of an injunction.

25 (b) Criminal Offenses

26 (1) Any person who *shall* practice, *or* offer to practice,

1 engineering, architecture, landscape architecture *or* land surveying on
2 Guam without being registered in accordance with the provisions of
3 this Chapter, *or* any person, firm, partnership, organization,
4 association, corporation *or* other entity using *or* employing the words,
5 “Engineer” *or* “Engineering”, “Architect” *or* “Architecture”,
6 “Landscape Architect”, “Land Surveyor” *or* “Land Surveying” *or* any
7 modification *or* derivative thereof in its name *or* form of business *or*
8 activity except as authorized in this Chapter, *or* any person presenting
9 *or* attempting to use the Certificate of Registration *or* the seal of
10 another, *or* any person who *shall* give any false *or* forged evidence of
11 any kind to the Board *or* to any member thereof *if* obtaining *or*
12 attempting to obtain a Certificate of Registration, *or* any person who
13 *shall* falsely impersonate any other registrant of like *or* different
14 name, *or* any person who *shall* attempt to use an expired *or* revoked
15 *or* non-existent Certificate of Registration, *or* who *shall* practice *or*
16 offer to practice when *not* qualified, *or* any person who falsely claims
17 that he is registered under this Chapter, *or* any person who *shall*
18 violate any of the provisions of this Chapter, *shall* be guilty of a petty
19 misdemeanor for the first offense, and a third degree felony for the
20 second *or* any subsequent offenses.

21 (2) It *shall* be the duty of all duly constituted officers of
22 Guam to enforce the provisions of this Chapter and to prosecute any
23 person violating same.

24 (3) The Attorney General of Guam *shall* act as legal advisor
25 to the Board and render such legal assistance as may be necessary in
26 carrying out the provisions of this Chapter. The Board may employ

1 independent counsel and necessary assistance to aid in the
2 enforcement of this Chapter, and the compensation and expenses,
3 therefore, *shall* be paid from funds of the Board.

4 (4) Any person who is *not* registered as a professional
5 engineer, architect, landscape architect *or* land surveyor under this
6 Chapter and who, by written *or* verbal claim, sign, advertisement,
7 letterhead, card *or* in any other way represents himself to be a
8 professional engineer, architect, landscape architect *or* land surveyor
9 *or* through the use of some other title implies that he is a professional
10 engineer, architect, landscape architect *or* land surveyor *or* that he is
11 registered under this Chapter *or* holds himself out as able to perform
12 any engineering service *or* work *or* any other service designated by
13 the practitioner which is recognized as engineering, architecture,
14 landscape architecture *or* land surveying *shall* be guilty of a petty
15 misdemeanor.

16 **§32123. Certificate of Authorization (COA).** (a) The practice
17 of *or* offer to practice engineering, architecture, landscape architecture *or*
18 land surveying as defined in §32103 of this Chapter by individual engineers,
19 architects, landscape architects *or* land surveyors registered under this
20 Chapter, *or* by individuals lawfully practicing under §32124 of this Chapter
21 through a corporation (including professional corporations), partnership
22 (including registered limited liability partnership), *or* limited liability
23 company, is permitted, subject to the provisions of this Chapter.

24 A corporation, partnership, proprietorship *or* limited liability company
25 holding itself out *or* performing any of the services involved in the practice
26 of engineering, architecture, landscape architecture *or* land surveying must

1 obtain a Certificate of Authorization from the Board. The Board may issue a
2 Certificate of Authorization to such corporation, partnership, proprietorship
3 *or* limited liability company, provided that:

4 (1) one (1) *or* more of the officers of a corporation; one (1)
5 *or* more of the general partners of a partnership (including limited
6 liability partnership); the *sole* proprietor of a proprietorship; *or* one (1)
7 *or* more of the managers of a limited liability company are registered
8 under this Chapter, *or* the engineering, architecture, landscape
9 architecture *or* land surveying registration law of another jurisdiction
10 within the United States, District of Columbia *or* its Territories; and

11 (2) any agreement to perform such services *shall* be
12 executed on behalf of the corporation, partnership, limited liability
13 company by the officer *or* officers, general partner *or* partners, *sole*
14 proprietor *or* by the manager *or* managers who are registered on
15 Guam and who exercises responsible control over the particular
16 services contracted for by the corporation, partnership, proprietorship
17 *or* limited liability company.

18 The requirements of this Chapter *shall not* prevent the
19 employees of such corporations, partnerships, proprietorships *or*
20 limited liability companies from performing engineering, architecture,
21 landscape architecture *or* land surveying services; provided, that all
22 technical submissions involving the practice of engineering,
23 architecture, landscape architecture *or* land surveying as defined in
24 this Chapter when issued, *or* filed for public record, *shall* be dated,
25 and bear the seal and signature of the professional engineer, architect,
26 landscape architect, *or* professional land surveyor under whose

1 responsible control it was prepared.

2 (b) A corporation, partnership, proprietorship *or* limited liability
3 company desiring a Certificate of Authorization *shall* furnish the Board such
4 information about its organization and activities as the Board may require by
5 regulation, and to designate the individual *or* individuals duly registered to
6 practice engineering (by discipline), architecture, landscape architecture, *or*
7 land surveying on Guam who *shall* be in responsible control of the practice
8 as the Responsible Managing Employee (RME).

9 (c) A multi-discipline firm who has more than one (1) designated
10 RME *shall* be required to have a minimum of one (1) RME and who must
11 have full control over the particular services contracted for by the firm. In
12 the event there *shall* be a change in any of these persons during the year,
13 such change *shall* be reported in the form as issued by the Board within
14 thirty (30) days after the effective date of said change.

15 *If* all of the requirements of this Section are met, the Board may issue
16 a Certificate of Authorization to such corporation, partnership,
17 proprietorship *or* limited liability company authorizing such organizations to
18 contract for and to collect fees for furnishing engineering, architecture,
19 landscape architecture or land surveying services. All off-island firms *shall*
20 be required to maintain a local office under the control of at least one (1)
21 Responsible Managing Employee who shall be in full control of the
22 operations of the firm. The COA *shall* be displayed in a conspicuous place
23 in such business.

24 *No* such corporation, partnership, proprietorship *or* limited liability
25 company shall be relieved of responsibility for the conduct or acts of its
26 agents, employees *or* officers by reason of its compliance with the

1 provisions of this Section, nor *shall* any individual practicing engineering,
2 architecture, landscape architecture *or* land surveying services performed by
3 reason of his employment *or* relationship with such corporation, partnership,
4 proprietorship or association.

5 A certificate of incorporation *shall not* be issued to an applicant for a
6 registration as a foreign firm to a firm which includes, among the objectives
7 for which it is established any of the words “engineer”, “engineering”,
8 “architect”, “architecture”, “landscape architect”, “landscape architecture”,
9 “surveyor”, “land surveying”, *or* any modification or derivation thereof,
10 unless the Board has issued for the said applicant a Certificate of
11 Authorization *or* letter indicating the eligibility of such applicant to receive
12 such a certificate. The firm *shall* supply such certificate *or* letter from the
13 Board with the applicant’s application for incorporation, licensure *or*
14 authorization.

15 (d) The responsible department within the government of Guam
16 *shall* decline to register any trade name *or* service mark which includes such
17 words as set forth in Subsection (c) of this Section, *or* modification *or*
18 derivatives thereof, in its firm name *or* logo type, except those firms holding
19 an authorization certificate under the provisions of this Section.

20 (e) An engineer, architect, landscape architect *or* land surveyor
21 who renders occasional part-time *or* consulting engineering, architectural,
22 landscape architect *or* land surveying services to *or* for a firm may *not*, for
23 the purposes of this Section, be designated as being responsible for the
24 professional activities of the firm.

25 (f) This Section *shall not* require a Certificate of Authorization for
26 a firm performing engineering, architecture, landscape architecture *or* land

1 surveying for the firm itself *or* a parent *or* subsidiary of said firm.

2 (g) The Certificate of Authorization *shall* be renewed as herein
3 provided in §32117(a).

4 **§32124. Exclusive Jurisdiction of the Board -- Restriction on**
5 **Requirement for Additional Licenses or Fees.** No local jurisdiction *shall*
6 have the authority to require additional licensure or to require payment of
7 any fees in order for any professional engineer, architect, landscape architect
8 *or* land surveyor to engage in the practice of the profession for which the
9 Board has issued a license.

10 **§32125. Contract Law Language.** (a) A Professional Engineer,
11 Architect, Landscape Architect, *or* Land Surveyor *shall* use a written
12 contract when contracting to provide professional engineering, architecture,
13 landscape architecture, land surveying *or* construction management services
14 to a client pursuant to this Chapter. The written contract *shall* be executed
15 by the professional engineer, architect, landscape architect, *or* land surveyor
16 and the client, *or* their representative, prior to the professional engineer,
17 architect, landscape architect *or* land surveyor commencing work, unless the
18 client knowingly states in writing that work may commence before the
19 contract is executed. The written contract *shall* include, but *not be limited*
20 *to*, all of the following:

21 (1) a description of the services to be provided to the client
22 by the professional engineer, architect, landscape architect *or* land
23 surveyor;

24 (2) a description of any basis of compensation applicable to
25 the contract, and the method of payment agreed upon by the parties;

26 (3) the name, address, and license *or* certificate number of

1 the professional engineer, architect, landscape architect *or* land
2 surveyor, and the name and address of the client; and

3 (4) a description of the procedure that the professional
4 engineer, architect, landscape architect *or* land surveyor and the client
5 will use to accommodate additional services.

6 (b) This Section *shall not* apply to any of the following:

7 (1) Professional engineering, architectural, landscape
8 architectural *or* land surveying services rendered by a professional
9 engineer, architect, landscape architect *or* land surveyor for which the
10 client will *not* pay compensation.

11 (2) A professional engineer, architect, landscape architect *or*
12 land surveyor who has a current or prior contractual relationship with
13 the client to provide engineering, architectural *or* land surveying
14 services, and that client has paid the professional engineer, architect,
15 landscape architect *or* land surveyor all of the fees that are due under
16 the contract.

17 (3) *If* the client knowingly states in writing after full
18 disclosure of this Section that a contract which complies with the
19 requirements of this Section is *not* required.

20 (c) “Written Contract” as used in this Section includes a contract
21 that is in electronic form.

22 **§32126. Exemption Clause.** This Chapter *shall not* be construed
23 to prevent the practice by:

24 (a) Temporary Permits.

25 (1) Professional Engineer/Architect — The practice *or* offer
26 to practice engineering, architecture or landscape architecture by a

1 person *not* a resident of *or* having no established place of business on
2 Guam, provided such person is legally qualified by registration to
3 practice engineering, architecture *or* landscape architecture as defined
4 in §32103 of this Title, in his own state *or* territory and, in the case of
5 a person seeking to practice architecture, who has a current certificate
6 of registration issued by the National Council of Architectural
7 Registration Boards, and in the case of a person seeking to practice
8 landscape architecture, who has a correct Certificate of Registration
9 issued by the Council of Landscape Architectural Registration Boards.
10 Such person *shall* make application to the Board in writing and, after
11 payment of a fee as prescribed in the by-laws, may be granted written
12 permit for a definite period of time *not to exceed* one (1) year to do a
13 specific job, provided, however, that *no* right to practice engineering,
14 architecture *or* landscape architecture *shall* accrue to such applicant
15 with respect to any other work *not* set forth in said permit. However,
16 engineers hired as a chief engineer for a government entity may be
17 granted a one (1) year temporary license from the date of hire. Prior to
18 the expiration of his temporary license, the individual must submit an
19 application for a regular *or* permanent registration to practice
20 engineering, *if* otherwise qualified, in order to continue to serve as
21 Chief Engineer.

22 For Civil Engineers only. The applicant must have passed the
23 CSCS examination.

24 (2) Land Surveyor. The practice of land surveying
25 under a temporary permit by a person registered as a land surveyor in
26 another state is *not* considered to be in the best interest of the public

1 and therefore *shall not* be granted.

2 (b) Employees and Subordinates. The work of an employee *or* a
3 subordinate of a person holding a Certificate of Registration under this
4 Chapter *or* an employee of a person practicing lawfully under Subsection (a)
5 of this Section, provided, such work *does not* include final engineering,
6 architecture, landscape architecture *or* land surveying designs *or* decisions
7 and is done under the direct supervision of and verified by a person holding
8 a Certificate of Registration under this Chapter *or* a person practicing
9 lawfully under Subsection (a) of this Section.

10 (c) Practice of Construction Management. Any service *or* work, the
11 adequate performance of which involves professional construction
12 inspection *or* observation, certifications, shop drawing review and approval,
13 engineering calculations, specifications, revising construction details,
14 construction interpretation, etc., as defined in §32103 of this Chapter.

15 (d) The Chief Engineer for any government entity *shall* be
16 responsible for management of engineers of other disciplines.

17 **§32127. Duties of Recordors.** It *shall* be unlawful for the
18 recorder of deeds *or* the civil registrar of titles to file *or* record any map,
19 plat, survey *or* other documents, within the definition of land surveying,
20 which do *not* have impressed thereon and affixed thereto the personal
21 signature and seal of the professional land surveyor by whom *or* under
22 whose direct supervision the map, plat, survey or other documents were
23 prepared.

24 **§32128. Invalid Sections.** *If* any of the provisions of this
25 Chapter, *or if* any rule, regulation *or* order thereunder, *or if* the application
26 of such provision to any person or circumstance *shall* be held invalid, the

1 remainder of this Chapter and the application of such provision of this
2 Chapter *or* such rule, regulation *or* order to persons *or* circumstances, other
3 than those as to which it is held invalid, *shall not* be affected thereby.

4 **§32129. Effective Date.** This Law *shall* take effect thirty (30)
5 days from the date of passage.”

I MINA' TRENTA NA LIHESLATURAN GUAHAN

2009 (FIRST) Regular Session

Date: 5/29/09

VOTING SHEET

SBill No. 25 (LS)

Resolution No. _____

Question: _____

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT</u>
ADA, Thomas C.	✓				
AGUON, Frank B., Jr.	✓				
BLAS, Frank F., Jr.	✓				
CALVO, Edward J.B.	✓				
CRUZ, Benjamin J. F.	✓				
ESPALDON, James V.	✓				
GUTHERTZ, Judith Paulette	✓				
MUNA-BARNES, Tina Rose	✓				
PALACIOS, Adolpho Borja, Sr.	✓				
PANGELINAN, vicente (ben) cabrera	✓				
RECTOR, Matthew	✓				
RESPICIO, Rory J.	✓				
TAITAGUE, Telo	✓				
TENORIO, Ray	✓				
WON PAT, Judith T.	✓				

TOTAL

15

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs
30th Guam Legislature • I Mina' Trenta Na Liheslaturan Guåhan

May 8, 2009

The Honorable Judith T. Won Pat, Ed.D.

Speaker

I Mina' Trenta Na Liheslaturan Guåhan

155 Hesler Place

Hagåtña, Guam 96910

VIA: The Honorable Rory J. Respicio
Chairperson, Committee on Rules

2009 MAY 26 PM 12:43
ewm

RE: Committee Report – Bill No. 25 (LS)

The Committee on Utilities, Transportation, Public Works, and Veterans Affairs, to which was referred **Bill No. 25 (LS) – “An act to repeal and re-enact chapter 32 of title 22, Guam Code Annotated, relative to the Professional Engineering, Architects and Land Surveyors (PEALS) Law”**, hereby reports out with the recommendation **TO PASS** the bill as substituted by the Committee.

Transmitted herewith for your consideration and action is our committee report on the above subject matter.

The voting record is as follows:

5 To Pass

_____ Not to Pass

_____ To Report Out Only

_____ Abstain

_____ Inactive File

Copies of the Committee Report and other pertinent documents are attached. Thank you for your attention on this matter.

Si Yu'os Ma'ase

Thomas C. Ada

ccr
RECEIVED
MAY 11 2009
SPN



Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs
30th Guam Legislature • I Mina' Trenta Na Liheslaturan Guåhan

Committee Report

Bill No 25 (LS)

As substituted by the Committee on Utilities,
Transportation, Public Works and Veterans Affairs



Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs
30th Guam Legislature • I Mina' Trenta Na Liheslaturan Guåhan

May 8, 2009

MEMORANDUM

To: All Members, Committee on Utilities, Transportation, Public Works and Veterans Affairs

From: Senator Thomas C. Ada, Chairperson, Committee on Utilities, Transportation, Public Works and Veterans Affairs

Subject: Voting Sheet for Bill No. 25 (LS)

Included herewith for your information and action is the Committee Report on:
Substituted Bill No. 25 (LS) – “An act to repeal and re-enact chapter 32 of title 22, Guam Code Annotated, relative to the Professional Engineering, Architects and Land Surveyors (PEALS) Law”

Please take the appropriate action on the voting sheet. Should you have questions regarding the report or accompanying documents, please do not hesitate to contact me. Your attention and cooperation on this matter is greatly appreciated.

Si Yu'os Ma'ase,

Thómas C. Ada

Attachments: Committee Voting Sheet
Committee Report
Bill No. 25 (LS)
Public Hearing Sign-In Sheet
Notice of Public Hearing



Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs
 30th Guam Legislature • I Mina' Trenta Na Liheslaturan Guåhan

VOTING RECORD

Bill No. 25 (LS) – “An act to repeal and re-enact chapter 32 of title 22, Guam Code Annotated, relative to the Professional Engineering, Architects and Land Surveyors (PEALS) Law” as substituted by the Committee on Utilities, Transportation, Public Works and Veterans Affairs.

Committee Members	SIGNATURE	TO PASS	NOT TO PASS	TO REPORT OUT OF COMMITTEE	ABSTAIN	INACTIVE FILE
Senator Thomas C. Ada, Chairman		✓				
Senator Adolpho B. Palacios, Sr., Vice Chairman		5/8/09 ✓				
Senator Frank B. Aguon, Jr.						
Vice Speaker Benjamin J. F. Cruz						
Senator Tina Rose Muña-Barnes						
Senator Rory J. Respicio		5/8/09				
Senator James V. Espaldon		5/11/09				
Senator Telo Taitague		5/8/09				
Senator Ray Tenorio						

Public Hearing

Bill No. 25 (LS) – J.V. Espaldon

An act to repeal and re-enact chapter 32 of title 22, Guam Code Annotated, relative to the Professional Engineering, Architects and Land Surveyors (PEALS) Law.

I. Overview

The Committee on Utilities, Transportation, Public Works and Veterans Affairs convened on March 6, 2009 at 8:30am to hold a public hearing that included the subject of **Bill No. 25 (LS) – An act to repeal and re-enact chapter 32 of title 22, Guam Code Annotated, relative to the Professional Engineering, Architects and Land Surveyors (PEALS) Law**. Notice of the hearing was disseminated to all local media outlets via facsimile on February 26, 2009 and March 3, 2009, thus meeting the requirements of the Open Government Law. Notice of the hearing was also posted on the Guam Legislature's website.

Committee Members and Senator present:

Senator Thomas C. Ada	Chairman
Senator Adolpho B. Palacios, Sr.	Vice Chairman
Senator James V. Espaldon	Member
Senator Telo Taitague	Member

Testimony submitted by:

David Eaton
Frank L.G. Castro
Leonard Olive
Elmer Pineda
Paul L. Santos
Dean Gillham
Sam Taylor
John Benavente
Dennis Balagtas
Andy Laguana
Elizabeth Gayle
Amor A. Pakingan

II. Summary of Testimonies

David Eaton:

Provided oral and written testimony (written testimony is attached)

David Eaton is the President of the Guam Society of Professional Land Surveyors and indicated support for Bill No. 25 through the reading of his written testimony. In endorsing Bill No. 25, Mr. Eaton explained that surveying has become a complex professional field, and described the expanded responsibilities surveyors now embrace. He further conveyed his support for Bill No. 25 by stating that it clarified what field-work and mapping procedures required the use of a Professional Land Surveyor.

Frank L.G. Castro:

Provided oral and written testimony (written testimony is attached)

Frank L.G. Castro testified as the president of the Pacific Association of Land Professionals (PALP), former president of the Guam Society of Professional Land Surveyors (GSPLS) and as a practicing land surveyor for Guam, the U.S. Commonwealth of the Northern Mariana Islands and the Federated States of Micronesia. He endorsed Bill No. 25 and its intent to update the outdated law to better address challenges that the island may face due to the military build-up. He believes that Bill No. 25, if passed, would establish a uniform law that would erase the possibility of a double standard between professionals who work for the government and those that work for private firms. He appeals to the 30th Guam Legislature for the passage of Bill No. 25 into law.

Leonard Olive:

Provided written testimony (attached)

Leonard Olive is the General Manager of Guam Waterworks Authority. In his written testimony, Mr. Olive pointed out that many government entities are required by law to adopt rules and standards that govern their operations. He then discussed that between the current PEALS law and Bill No. 25, it was still unclear whether a government agency is exempt from the requirements of the PEALS law in regards to applying their own standards. Mr. Olive stated that his testimony is a reflection of this uncertainty and suggested to consider the affect the proposed amendments will have on government agencies. These concerns regarding the proposed amendments are as follows:

Mr. Leonard notes that if section 32124.d, the “exemption clause” subsection, is passed as written, then agencies would be required to hire licensed engineers in all disciplines in order to review drawings. This would greatly increase the operational costs of GWA. Additionally, subsection (e) would allow government agencies to locate and plot existing facilities by conventional or GPS methodologies without having to contract the work to a licensed surveyor. It is believed by Mr. Olive that this nature of work and use of data by GWA does not warrant the need to contract a licensed surveyor. Subsection (f) also includes construction inspection within the definition of the practice of engineering and that such work must be done by a licensed engineer or under the supervision of a licensed engineer. Mr. Olive believes that it is not the intention of the board to require the customary practice of construction inspection for compliance with plans prepared by a licensed engineer to be conducted by a licensed engineer or under his supervision. Mr. Olive believes that the strict interpretation of the law as written in Bill No. 25 would require construction work to be conducted under the direction of a licensed engineer. He stated that it is not a practice to have this enforcement on Guam, nor in many other jurisdictions. He believes that the intention of the PEALS Board is not to require this strict limitation.

Mr. Olive closes his testimony by praising the Board for their dedication to the island in regards to the regulation of practicing engineers and expressed that it is GWA’s objective to submit testimony to help address the inconsistencies and unenforceable provisions that are found in Bill No. 25.

Elmer Pineda

Provided written testimony (attached)

Mr. Pineda is a Land Surveyor Intern (LSI) and addressed his concern regarding Bill No. 25.

Mr. Pineda notes that on page 11, lines 44-47, and on page 12, line 1, the phrase “a permanent resident alien eligible for United States citizenship” was deleted. He is concerned that this now means a permanent resident alien is not qualified. Mr. Pineda would like the original language to remain. To further explain his concern, Mr. Pineda notes that Bill No. 25 allows a license to be given to “legally admitted alien” authorized to work in the United States even though their stay within the US is only temporary. He wonders who will be accountable when Land disputes arise in the future, and if this bill is geared to the military build-up. He is also concerned about whether this bill will account or adjust for the decrease in activity after the build-up is completed. Mr. Pineda notes that the bill, in its current form, will easily allow registration by comity or endorsement, or registration by licensed land surveyors from any foreign country by requiring them only to pass the Guam Land Matters. He believes that this should not be the case for Professional Engineers; as such, he recommends adding the lines: “(cc) the applicant passes the Fundamental of Land Surveying”, and “(dd) the applicant maintains current registration from his based jurisdiction where the license was obtained through examination.”

Paul L. Santos

Provided oral and written testimony (attached)

Mr. Santos is the Chairman of the PEALS Board and on behalf of the Board expressed support for Bill 25. He stated that statutes governing the practice of engineering, architecture, and land surveying need to be updated and clarified in accordance to the policies and procedures of the National Councils for engineering architecture and land surveying. Mr. Santos notes that the PEALS law was last amended in September 1998, and emphasized that the law is due for an update. Mr. Santos states that Bill No. 25 is a result of collaborations with the Board, registrants and professional associations. He continues by listing the general changes to current law as proposed by Bill No. 25: New definitions were added and old ones were updated; the profession of Landscape Architect and the practice thereof was added; residency requirements for registration were deleted; Board powers are clarified; a required Intern Development Program for architects examinees is added; expiration and renewals procedures were updated; and, violations and penalties powers were given to the Board to effectively enforce the Code. Mr. Santos concludes his testimony by stating that the updated law would bring Guam up to par with other jurisdictions and he reiterates the Board’s support for Bill No. 25.

Dean Gillham

Provided oral and written testimony (written testimony is attached)

Mr. Gillham is a registered Civil and Structural Engineer who has practiced on Guam for 42 years. He expressed his support for Bill No. 25 with a few editing changes to clarify the intent and definition, such as changing “supervision” to a more appropriate word. In his previous testimony on a similar previous bill (Bill No. 400 in the 29th Legislature), Mr. Gillham suggested that “(aa)” in the Registration by Comity section is unnecessary, confusing and open to misinterpretation. Additionally, he recommends that the law should make continuing education a requirement for registration renewal. Mr. Gillham believes that the intent of the legislation is to safeguard life, health, and property and to promote the public welfare and that strict enforcement of the PEALS law is necessary to accomplish this goal.

Sam Taylor

Provided oral testimony

Mr. Taylor is GWA's legal counsel and he presented testimony as written by Leonard Olive, the General manager of GWA. Aside from the written testimony, Mr. Taylor mentioned that it is GWA's duty to inspect the contractors and verify that they are following the standards and codes found in the regulations. He stated that if GWA had to contract out services, then its work would be stalled.

John Benavente

Provided oral testimony

Mr. Benavente is General Manager for the CCU, and he testified in support for Bill No. 25 with the provision that the suggestions made in Mr. Olive's written testimony would be addressed accordingly. He supports the suggestions made by Mr. Olive and reiterates that it is currently difficult to hire Professional Engineers for GWA. Therefore, Mr. Benavente notes, if Bill 25 is strictly interpreted, the statute would cripple the utilities in their ability to do their duty.

Dennis Balagtas

Provided oral testimony

Mr. Balagtas is a professional land surveyor in Guam and California, and he is in support of Bill No. 25. Mr. Balagtas recognizes the value land surveying provides the community in maintaining the integrity of the land. He also comments that in the GIS section of the bill, it may be wise to require persons to be knowledgeable of the GIS. Mr. Balagtas thanked the Committee and asked for their support in passing Bill No. 25.

Andy Laguana

Provided oral testimony

Mr. Laguana is a member of the PEALS board, and he spoke to GWA's request to conduct contractor inspections without a Licensed Engineer. He stated that GWA should have a Licensed Engineer to make sure they follow the same standards the private sector follows so that communications between the groups would be compatible. Mr. Laguana supports the introduction of a landscape architecture into the Bill No. 25 because he believes that these individuals would improve the landscape environment, especially around Marine Drive.

Question and Answer

Senator Espaldon asked Mr. Eaton if he is amendable to including the amendments recommended by Sam Taylor and John Benavente. The Senator reiterated that these recommendations are offered with the aim to allow the board to continue to pursue its work.

Sam Taylor clarified that the government of Guam does not want to get into the professional business of engineering or surveying, but they would like to be able to look at the drawings and plans to verify that it meets standards.

Dean Gillham agreed that it is acceptable to him, if that is the case.

David Eaton made a suggestion that GWA contract out to the private sector.

Sam Taylor mentioned that GWA already contracts the private sector to do this type of work for them.

Paul L. Santos introduces the Board members of the PEALS.

Senator Palacios: In the event of a conflict of opinion, when a government official disagrees with the professional or licensed engineer, it usually falls in the favor of the government agent. This is unfair to the public. Government agents must adhere to the same standards as the professional, why would he support the Government's amendments?

Paul Santos mentioned that DPW is outsourcing already. The argument that GWA states that it will be expensive to outsource is not really valid. GPA does it, why can't GWA do this.

Senator Espaldon requested that the GWA and GPA representatives join the panel so that the discussions of the issues can be made along with the other members of the panel.

Senator Ada mentioned that a roundtable discussion would be scheduled to further address each issue so that the gap between the standards set by the PEALS and agencies can be filled. For the public hearing, he wanted to stay focused on the amendments that are made to the PEALS law.

Senator Palacios asked if the PEALS Board supported the proposed amendments to exempt the government agencies from the same standards that PEALS have to adhere to? Please look at these amendments made by GWA and address this during the roundtable.

Senator Taitague asks if this bill, upon passage, will address the issues that will arise from the military buildup.

Andy Laguana answers that this is a different issue.

Senator Ada notes that in reading through the bill, it appears that the board is now allowing professionals from foreign countries. He asks for a response to this change in law.

Paul Santos responds by sharing that is important to maintain the mobility of the licensee to move from one jurisdiction. He also notes that there is an arm of NCES that screens applications coming in to make sure they abide by accepted standards equivalent to US standards. He is confident that there are enough safeguards to ensure a licensee is qualified.

Andy Laguana adds that, for architects, there is a task force in which comparable counterparts meet together to develop standards or agreements that would satisfy US standards.

Dean Gillham asks whether the new law will accept applications on a comity basis.

Andy Laguana states that if individuals are licensed with NCARB then they will be reviewed to see if they can be given a licensed on Guam. Not anyone with a licensed can just apply, but rather, they have to be licensed with NCARB.

Dean Gillham states that in bill 25 there is language regarding license by comity, and that this language may be contradicting itself or suggesting that it is okay to apply for a license if one has a foreign license.

Senator Ada notes that on Page 13 of the bill 25, in section (ee), one paragraph allows applicants from foreign countries and then another requires that the applicant must currently be registered from a US jurisdiction.

Andy Laguana recommends that this question be clarified during the mark-up meeting.

Senator Ada asks whether, on page 7, paragraph 5 (regarding the responsible managing employee), the RME would supervise other engineers outside their specialty.

Elizabeth Gayle clarifies that each firm must have an RME that is licensed in each field, and as such, they would manage or supervise within their respective field.

Paul Santos advises that language in the bill must be clarified during the mark-up session.

Senator Ada asks for the frequency with which licenses have to be renewed, and the manner by which an applicant demonstrates that they are qualified. Additionally, he wishes to know if there is any form of continuing education.

Andy Laguana answers that right now there is no continuing education. But, he notes, members of the AIA have to show that they have credits or the qualifications to get renewal of their membership, and the PEALS board is looking to do something comparable.

Senator Ada asks whether the engineering sections have anything comparable.

Elizabeth Gayle answers that some other jurisdictions require it but Guam does not.

Paul Santos further explains that in regards to land surveying, currently there is none as well, but the internet should facilitated something in comparison. Once the bill goes through, notes Mr. Santos, then competency for renewal of license on Guam will be looked into.

Senator Ada for clarification regarding the basis of renewal.

Paul Santos answers that the applicant must not have been disciplined, be of good moral character and be current with the field. He also notes that this information is available on page 22, section 22120.

Dean Gillham shares that he is primarily a structural engineer, and in his experience continuing education for structural engineering is very important, especially in regards to being knowledgeable on seismic studies.

Senator Ada notes that on page 6 line 28, regarding construction management., it appears that a firm can hire a civil engineer and do an onsite inspection on all its projects. He asks if this is correct.

Paul Santos replies that the construction manager would hire specifically to address the discipline or field.

Dean Gillham responds that the language suggests the other way around, and that as such anyone can inspect other specialties.

Senator Ada asks for clarification on who is being inspected when DPW sends out inspectors.

Dean Gillham answers that DPW is inspecting the contractors and verifying if they are following the standards as set forth.

Amor Pakingan notes that the role of the public inspectors is to come to the site during each milestone in the project and to look for minimum code compliance issues. The Construction management looks at the design and the quality control issues and the contractor conforms to the drawings.

Senator Ada asks if the limited number of inspectors from DPW can hold back the work progress significantly.

Amor Pakingan answers that this is sometimes the case, but it is not a big problem as contractors give them a schedule and so it is usually not a problem.

Senator Ada notes that it does not sound significant at all.

Dean Gillham responds by saying a person cannot place concrete when it is raining. He notes that DPW tries their best to accommodate the contractor, but there are a lot of factors that come into play aside from the lack of public inspectors.

Senator Ada notes that there will be a mark up session on Bill 25 to clarify and address other important issues.

Ron Perry wonders if maybe Guam should be defined, because some companies can come from Hawaii and work behind the fence without getting a license.

Rita Franquez states that the military build up will bring new construction on Guam, and the government must assure that the new buildings are built properly. She believes that there should be a site manager to assure that the plans are being followed properly and that there should be high standards when it comes to the building of government buildings.

Kenneth Rectal expressed support for the bill as a whole, with a few concerns: on page 12, he asks why is the requirement for the license and registration by examination. Also, he wonders why is the one-year experience under supervision is omitted from the original bill.

Paul Santos says that they cannot answer that question at this moment. They noticed that there are some changes that are in Bill 400 and 25 that do not correspond and so it is important to have a roundtable to clarify this discrepancy.

Kenneth Rectal adds that it does not say that an internship has to be under a professional engineer.

Senator Ada responds that he will take note of that.

Kenneth Rectal shares that in regards to his specific and unique case, there was some technical accreditation problems. The board eventually concurred, but he hopes that this new bill would not pose a problem for those who decide to take the route that he took.

Senator Espaldon asks for clarification regarding Mr. Rectal's specific issue.

Paul Santos replies that his case was heard in the national level and was addressed.

Senator Ada notes that he believes Mr. Rectal's issue has been addressed within the new bill.

Elizabeth Gayle adds that the problem was regarding the accreditation of the school, but the board addressed it, and as such, it should not be a problem in the future.

Senator Ada reiterates that there will be a roundtable discussion on the Bill forthcoming. He then concludes and adjourns the public hearing at 3:25pm.

III. Findings and Recommendation

The Committee on Utilities, Transportation, Public Works and Veterans Affairs finds that current law must be updated in order to aid the Professional Engineering, Architects and Land Surveyors Board in the pursuit of its mandate. The Board serves admirably and well, but the anticipated demands of the pending military build-up, coupled with the increasing complexity of the professional fields regulated under its purview, necessitate adjustments in law to aid the Board in better addressing future challenges.

In order to achieve these aims, and after receiving public input on Bill No. 25 (LS), the Committee has amended the bill as such:

- General spelling and grammar corrections have been made throughout the document.
- In §32103.e, "National Architectural Accreditation Board" was corrected to "National Architectural Accrediting Board".
- In §32103.q, "NAAB" was defined as the acronym for the "National Architectural Accrediting Board"
- "Landscape Architects" were added throughout the bill as an additional profession affected by the PEALS Board.
- In §32109.h, "professional engineering societies" was expanded to "professional engineering, architectural, landscape architectural, and land surveying societies".

- In §32111.b, the “Administrator” was clarified to mean the “Executive Board Administrator”.
- In §32111.c, the “Council of Landscape Architectural Registration Boards and any of its subdivisions” was included.
- Throughout §32113, the term “examination” was clarified to mean a “current form of examination”.
- In §32113.b.5.ii, the term “surveyor” was clarified to mean “land surveyor”.
- In §32115.e, the term “written” was removed from “written examinations” in order to be inclusive of present and future forms of test-taking.
- In 32116, regarding the certificate of registration for a Landscape Architect, the designation was corrected to read “REGISTERED LANDSCAPE ARCHITECT”.
- Throughout the document, “limited liability company” was added to the types of entities that may be affected by this bill.
- In §32120.c, “(b)(16)” was a typo, and corrected to read “(b)(15)”.
- In §32123.c, in order to be more consistent with the earlier part of this paragraph, the phrasing “available on a full time basis with 75% physical presence” was removed and replaced with “shall be required to have a minimum of one (1) RME and...”.

The Committee on Utilities, Transportation, Public Works and Veterans Affairs, to which was referred **Bill No. 25 (LS) – An act to repeal and re-enact chapter 32 of title 22, Guam Code Annotated, relative to the Professional Engineering, Architects and Land Surveyors (PEALS) Law**, finds support for the bill and hereby submits its findings and recommendations to *I Mina’ Trenta Na Liheslaturan Guåhan* **TO PASS AS SUBSTITUTED** Bill No. 25.

David E. Eaton

President of the Guam Society of Professional Land Surveyors

PMB 641, 535 CH. Pale R.H Suite 116

Yigo, Guam 96929

Senator Ada, Senator Espaldon, Senator Palacios and other honorable senators, I want to thank you for the opportunity to address our concerns on Bill No. 25.

My name is David E. Eaton and I am the President of the Guam Society of Professional Land Surveyors.

This proposed new PEALS Law revises the requirements for licensure for the Professional Land Surveyor and provides a much needed update of the services our profession provides.

Surveying is a complex professional field of endeavor that has experienced rapid technological advancements in recent years. The services that surveyors are providing have increased to include GNSS Solutions for Seismic and construction monitoring, and propagating geodetic control. Surveyors are heavily involved with all phases of GIS, through gathering the base layers to maintaining facility attributes. There have been many advances in hydrographic surveying and topographic surveying and mapping has evolved to the required digital terrain modeling that can provide survey field crews the capacity to simultaneously work with the existing surfaces and stakeout the new digitally designed construction improvements.

Cadastral surveying on Guam has a fascinating history that needs to be understood before a surveyor can begin to properly analyze the property corner monuments observed in a survey. The boundaries of all new construction projects on Guam should always depend on proper identification of the property corners that define the boundary lines and the proper identification and use of the various geodetic control datums and the monuments used for that datum.

This new law will also go a long way to protect the public by clarifying the type of field work and mapping procedures that require a Professional Land Surveyor.

Thank you,

David E. Eaton PLS

Ph: W: 647-0808

Cell: 898-1803

FRANK L.G. CASTRO
Registered Land Surveyor
Guam #19....CNMI #14....FSM #1
P.O. Box 1119 Hagatna, Guam 96932

In the Matter of Legislative Bill No. 25 (formerly L.B. No. 400 (EC))

Mr. Chairman, other members of the Committee on Utilities and, all Senators of the 30th Guam Legislature present: for the record of this proceeding, my name is Frank L.G. Castro, -- I am nearly seventy-nine years of age,-- a practicing Land Surveyor in and for Guam, the US Commonwealth of the Northern Mariana Islands' and, the Federated States of Micronesia. Aside from that as being a Land Surveyor, I have served the people of Guam and Micronesia on top level positions at the Department of Lands in the region for the most parts' of my forty-six years of Government employment.

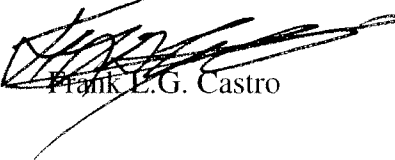
Sen dangkulu na si yu'us' ma'asi Senators- firstly, for your action in introducing and rehearing a measure which, because of timing at the tail-end of the 29th Guam Legislature, the said BILL FOR AN ACT remains on the pending status. --Secondly, we also thank you all for affording us the opportunity in appearing before you to testify on what is now Bill No. 25. My testimony on this matter will be very short. Specifically,-- my presence before this August Body on today's proceeding would be that as the re-elected and current President of a Regional Organization know as the "PACIFIC ASSOCIATION OF LAND PROFESSIONALS" (PALP), to which Guam is a part thereof, with membership extending from the Continental United States, Hawaii, American Samoa, all of the entites of the former Trust Territory of the Pacific Islands in our neighbors, Guam, Australia and the Philippines, -- as one of the three designated members of the "GUAM SOCIETY OF PROFESSIONAL LAND SURVEYORS" (GSPLS) duly agreed upon to come forth and testify on behalf of the Society,--and, as a former President and active member of GSPLS.

In summary, the majority of members with the Organizations I represent on today's event fully support's passage of Bill No. 25. We do need an updated set of Law to use as our bible, for in fact, the mandates we have been referring to have been established decades ago and it has to be brought up to par. With the impending military buildup and other development affecting our social, economic and political endeavors being right on the horizon, its only proper and fitting that we act upon eminent necessities. A uniform set of Law such as being proposed under Bill No. 25 will most certainly erased any possibility of a double-standard, whether professionals in our fields are working for the government or private firms.

It is firmly of our opinion Senators, that if Bill No. 25 pass into Law, I will accomplish and will accommodate the requisite needs of professionals to work with, and with that in mind, we sincerely hope that the 30th Guam Legislature will seriously tender its favorable consideration on the subject matter.

Si Yu'us Ma'asi Senators for giving me your ears.

Senseramente



Frank L.G. Castro



GUAM WATERWORKS AUTHORITY
ATURIDAT KINALAMTEN HANOM GUAHAN
Post Office Box 3010, Hagatna, Guam 96932
Phone: (671) 647-7847 Fax: (671) 649-0369

March 6, 2009

Senator Tom C. Ada
Chairman, Committee on Utilities,
Transportation, Public Works, and
Veterans Affairs
30th Guam Legislature
255 Hesler Street
Hagåtña, GU 96932

RE: Testimony From The Guam Waterworks Authority Regarding Bill 25.

Hafa Adai,

Many government entities are required under Guam law to promulgate rules and adopt standards governing their operations. Examples of such entities are the Guam Power Authority, the Department of Public Works and the Guam Waterworks Authority. These entities are empowered to interpret and implement those standards and regulations such as through the review of design drawings for compliance with said standards. These agencies are quite naturally left free to determine for themselves what personnel should be assigned to the positions responsible enforcement. This practice is common throughout the United States.

Under the current PEALS law and under Bill 25, it is unclear whether government agencies are exempt from the requirements of the PEALS law when it comes to applying their own standards. As such, the Guam Waterworks Authority would like to suggest some amendments to Bill 25 that would allow GWA and other government entities to function as they were intended under their enabling statutes, to eliminate potentially unenforceable provisions, correct inconsistencies and remove others that would have unintended consequences if strictly enforced.

GWA's proposed amendments are as follows:

“32124. EXEMPTION CLAUSE

This Act shall not be construed to prevent the practice by:”

* * *

“(d) an employee, agent or officer of any agency, department, autonomous agency or public corporation of the Government of Guam who are reviewing drawings and specifications for compliance with published and adopted building codes, regulations or standards of the said entity if the drawings and specifications have been signed and sealed by a professional architect or professional engineer or the preparation of the drawings is exempt under this section from the requirements of this chapter. In this paragraph, “codes” includes codes relating to building, mechanical, plumbing, electrical, utility, and fire standards;”

Commentary:

This provision is very important because it provides for drawing review that is routinely performed by GWA, DPW, GIAA, GEPA etc. that is currently in violation of the rules if one is not registered or working under a registered engineer. In some cases, this exemption might be necessary even if the chief engineer of an agency is a registered engineer – if not in the proper discipline. For example, say the GWA chief engineer was registered on Guam but as an electrical engineer, could subordinates working under this registered engineer practice civil engineering (i.e. review water and wastewater system drawings) if they themselves were not registered as civil engineers? Under the current law and the proposed changes these subordinates (and the agency) would be in violation of practicing engineering without a license. If strictly enforced as written, the law would force agencies to hire licensed engineers in all disciplines in order to review typical drawings in compliance with the law. This provision addresses that issue.

In the specific case of GWA, it should be noted that the majority of the water and wastewater work that is constructed on Guam is done as part of private developments with the infrastructure subsequently transferred to GWA for operation and maintenance. As such, the architect/engineer (AE) is hired directly by the private developer – not by GWA. Delivering a quality low cost product to the consultant will not always be congruent with GWA standards and requirements. Additionally, it is not typically in the AE scope of work to evaluate offsite impacts on existing systems. Therefore it is critical that GWA (and other government agencies) have the authority, supported by the PEALS law, to carry out drawing review, even in instances when not completed under the direction of a registered engineer.

“(e) any officer, agent or employee of an agency, department, autonomous agency or public corporation of the Government of Guam engaged in the practice survey for the purpose of locating, plotting or mapping existing government facilities for its internal purposes by whatever means; aside from the identification of boundaries;”

Commentary:

This provision would allow for government agencies to locate and plot existing facilities, such as utility features (valves, manholes, meters) by conventional or GPS methodologies without having to contract the work to a licensed surveyor. For example, GWA is in the process of locating existing water and wastewater facilities, for which we have no record drawings, for the purpose of improving our GIS data base and hydraulic modeling. We would not be able to afford this effort if it were necessary to contract the work to a licensed surveyor. Due to the nature of the work and the use of the data, we do not believe that this type of work should be consider within the practice of survey and require a license if it is to be undertaken.

“(f) any officer or employee of an agency, department, autonomous agency or public corporation of the Government of Guam, workers in building trades crafts, earthwork, grounds keeping, or nursery operations, and superintendents, supervisors, or inspectors in the performance of their customary duties;”

Commentary:

The current law includes construction inspection within the definition of the practice of engineering and as such construction inspection must be done by a licensed engineer or under the supervision of a licensed engineer. We do not believe that it is the intention of the PEALS board to require the customary practice of construction inspection for compliance with plans prepared by a licensed engineer to be conducted by a licensed engineer or under direct supervision of a licensed engineer.

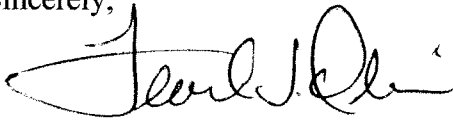
“(g) a contractor performing work designed by a professional architect, engineer, or landscape architect or the supervision of the construction of the work as a supervisor or superintendent for a contractor who is acting on behalf of a government agency, department autonomous agency or public corporation of the Government of Guam.”

Commentary:

Similar to the item above, a strict interpretation of the law as written requires that construction work be conducted under the direction of a licensed engineer. It is not current practice on Guam for most contractors to complete their construction work under the direct supervision of a licensed engineer when implementing construction according to plans prepared by a licensed engineer. This is not common practice in most jurisdictions and we do not believe that it is desired by the Board to enforce this requirement on Guam. Bill 25 present an opportunity to correct what appears to be an unenforceable provision in the law.

GWA supports the mission of the PEALS Boards to protect the life, health, and property and to promote the public welfare through the regulation of engineering practice. It is not our intention to impinge on the authority of the Board. GWA has made significant effort to create a culture that encourages the pursuit of professional registration by our engineering staff. The fact that GWA currently employs 4 engineers registered on Guam is testimony to that reality. Please accept that our objective in submitting and promoting these revisions is simply to make changes that we believe will correct inconsistencies and unenforceable provisions which are very important to the long-term development of Guam, rather we are trying to make a distinction between the actions of a government entity in the furtherance of its business.

Sincerely,

A handwritten signature in black ink, appearing to read "Leonard Olive". The signature is fluid and cursive, with a large initial "L" and "O".

Leonard Olive
General Manager,
Guam Waterworks Authority

March 5, 2009

To: Senator Thomas C. Ada
Chairperson
Committee on Utilities, Transportation, Public Works and Veterans Affairs

cc : Senator Jim V. Espaldon

Re: Written Testimony regarding Bill No. 25 (LS) or known as PEALS Law

Senator:

My name is Elmer Pineda, a Land Surveyor Intern (LSI) of and for Guam, and I would like to thank you for allowing me to voice my concern on Bill No. 25 (LS) also known as the Professional Engineers, Architects and Land Surveyors (PEALS) law.

My concerns are regarding who qualifies to be licensed in Guam as a Professional Engineer (PE), Architect (PA) or Land Surveyor (PLS).

Concern No. 1:

The original law states that, on Page 11 Lines 44-47 and Page 12 Line 1, ***“no person shall be eligible for admission to the examination for registration for professional engineer, architect or land surveyor, or for enrollment as an engineer intern or land surveyor intern, under this Title unless he: 1. is a citizen of the United States or a permanent resident alien eligible for United States citizenship.”***

The same lines will now read on the new Bill No. 25 (LS) as ***“no person shall be eligible for admission to the examination for registration for professional engineer, architect or land surveyor, or for enrollment as an engineer intern or land surveyor intern , under this Chapter unless he: 1. is a citizen of the United States or a legally admitted alien authorized to work in the United States.”***

Comments:

1. The line “a permanent resident alien eligible for United States citizenship” is nowhere to be found on this bill. I'm hoping for typo errors here, that this does not mean permanent resident aliens are not qualified anymore.
2. Why does Bill No. 25 (LS) would allow licensure to legally admitted alien authorized to work in the United States wherein their stay within the US is only temporary and short term. In the case of Land Surveying, in which maps and documents prepared by PLS becomes legal evidences, to whom will a land dispute be addressed should legal problems arises in the near future?
3. Is this bill geared to address some concerns on the incoming military movement? If so, will the bill should have a reset switch to the original law when the movement is completed?
4. I hope the lines of the existing PEALS law regarding who is eligible for registration, particularly Line 47 on Page 11 and Line 1 on Page 12 as shown on this bill be maintained and adopted on Bill No. 25 (LS).

Concern No. 2:

I am currently a Land Surveyor Intern aspiring to be a Professional Land Surveyor so this concern will be focused on Land Surveying but would also call sections of Bill No. 25 (LS) that pertains to professional engineers.

Under Registration by Comity or Endorsement of Professional Land Surveyors, the existing law states that ***“(aa) A person holding a certificate of registration to engage in the practice of land surveying on the basis of comparable qualifications issued by a proper authority of a state, territory or possession of the United States or the District of Columbia, who in the opinion of Board meets the requirements of this Title...”***. Please note that the phrase “any foreign country” is not on the existing PEALS law.

Under the new Bill No. 25 (LS), the same lines now read as ***“(aa) A person holding a certificate of registration to engage in the practice of land surveying issued by a proper authority of a jurisdiction or possession of the United States, or the District of Columbia, or any foreign country ...”***

Under Registration by Comity or Endorsement of Professional Engineers, the existing and new law under Bill No. 25 (LS) requires ***“(dd) the applicant passes the Fundamentals of Engineering examination (ee) the applicant maintains current registration from his based jurisdiction where license was obtained through examination”***.

Please note the “jurisdiction” is equivalent to “state” per NCEES.

Comments:

The new bill, in its current form, will easily allow registration by comity or endorsement of licensed land surveyors from any foreign country by requiring them only to pass the Guam Land Matters. Compared with the requirements of Professional Engineers, is it not correct and fair to existing United States citizens and permanent resident aliens that are professional land surveyors, land surveyor interns, and students aspiring to be land surveyors to include the following lines on the new law for Professional Land Surveyors:

(cc) the applicant passes the Fundamentals of Land Surveying

(dd) the applicant maintains current registration from his based jurisdiction where license was obtained through examination

Hopefully the above comments will be seriously considered to protect the interests of the public and US professionals who at the current time are struggling to compete on the meager land surveying market in Guam.

Again, thank you for giving me the opportunity in voicing my concerns regarding this bill.

Sincerely yours,



Elmer Pineda, LSI

Guam Land Surveyor Intern No. 4

TEL. 477-7991

Testimony on behalf of Bill 25
March 06, 2009
page: 1

TESTIMONY BEFORE THE COMMITTEE ON
UTILITIES, TRANSPORTATION, PUBLIC WORKS, AND VETERANS AFFAIRS
IN SUPPORT OF
BILL 25 – RELATIVE TO THE PEALS LAW
(March 06, 2009)

Hafa Adai and Good Afternoon, Mr. Chairman and members of the committee.

My name is Paul L. Santos and I am the Chairman of the Professional Engineers, Architects and Land Surveyors Board, commonly known as the PEALS Board. On behalf of the other members of the PEALS Board---Sonny P. Perez, P.E., Vice-chairman and engineer member; Liza J. Provido, R.A., A.I.A., Secretary and architect member; Andrew T. Laguana, R.A., A.I.A., architect member; Elizabeth C. Gayle, P.E., engineer member; Elena P. Garcia, public member, and Lawrence P. Perez, in his capacity as the Director of the Department of Public Works; I would like to express our appreciation for this opportunity to present our testimony in favor of Bill 25: an act to repeal and re-enact Chapter 32 of Title 22, Guam Code Annotated, relative to the PEALS Law. Thank You for recognizing the need to update the registration Law to ensure the continued safeguard to the life, health, safety and welfare of the general public.

The PEALS Board finds that the current statutes governing the practice of engineering, architecture and land surveying need to be updated and clarified in

Testimony on behalf of Bill 25
March 06, 2009
page: 2

accordance with the policies and procedures of the National Councils for engineering, architecture, and land surveying in order to keep abreast with the current policies of the National Council of Registration Boards and/or Council for Engineers, Architects and Land Surveyors. The proposed changes and clarifications to the provisions of the current PEALS Law, which have been discussed and coordinated by the Board with individual registrants and professional associations through several meetings and public hearings, are long overdue and certainly would be greatly beneficial to the Board, the registrants, and the general public.

For your information, the PEALS law was last amended in September 1998. It is our belief that if the proposed amendments under Bill 25 are approved, the Board would be able to perform its mission--- which is to safeguard life, health, and property, and to promote the public welfare---more effectively and provide better public service in the administration of the PEALS Law. It is the intent of this bill to amend, and in some cases, delete outdated and unclear language contained in the current statute.

The following are highlights of the changes:

- Addition of the definitions of Professional Engineer, Retired; Architect, Retired; and Land Surveyor, Retired;
- Addition the definitions of Professional Engineer, Emeritus; Architect,

Emeritus; and Land Surveyor, Emeritus;

- Update the definition of “Practice of Engineering”;
- Inclusion of the profession of Landscape Architect and the practice of Landscape Architecture;
- Update the definition of “Professional Land Surveyor” and “Practice of Land Surveying”;
- Addition of definition of “Technical Submissions”;
- Deletion of residency requirements for registration as this residency requirement is considered unconstitutional;
- Clarifies Board powers to more effectively protect the public;
- Addition of a requirement of completion of Intern Development Program (IDP) for architect examinees;
- Expiration and Renewals: To have a clear understanding of procedures of renewals between the certificate of registration and certificate of authorization;
- Violation and Penalties: To enable the Board to effectively enforce and control violations of the Code.

The Board currently serves nearly 1,000 individuals and A/E firm registrants.

The addition of Landscape Architect or the practice of Landscape Architecture will bring Guam on par with similar laws of other jurisdictions in the licensing and

Testimony on behalf of Bill 25
March 06, 2009
page: 4

registration of landscape architecture, and in the administration and monitoring of this profession.

As a member of this professional Board, I am here in full support of the Bill and my colleagues and we will attempt to address or answer any questions you and the Committee members may have regarding the proposed amendments.

The Board wishes to thank you for scheduling this hearing to obtain the views of the public, the members of the professions, and the Board on these changes.

Si Yu'os Ma'ase and Thank you!

A handwritten signature in black ink, appearing to read "Paul L. Santos". The signature is stylized and cursive, with a large initial "P" and "S".

PAUL L. SANTOS, P.L.S.

DEAN GILLHAM

Thursday, February 26, 2009

Senator Thomas C. Ada
Chairperson– Committee on Utilities, Transportation, Public Works, and Veterans
Affairs
Ada Plaza Center, Suite 207
173 Aspinall Avenue
Hagatna, Guam 96910

Hafa Adai Senator Ada

As a registered Civil Engineer, registered Structural Engineer, and a practicing engineer on Guam for the past 42 years, I fully support Bill No. 25 (LS). Attached is a copy of my previous written testimony. I have reviewed my previous testimony and have one comment on Page 19, lines 23 through 25.

On rereading Page 19, lines 23 through 25, it appears the intent is that if work is done off island, then the person certifying the work must supervise the work on a full time basis. As an example, if the person certifying the work resides on Guam, but the work is accomplished in a Stateside office, the person certifying the work must supervise the work on a full time basis, which means the person must be in the office in which the work is performed and supervising the work on a full time basis while the work is being performed. If such is the intent, I withdraw my objection.

Other Comments

Page 5, line 1. Appears the stricken words of ~~Land Surveying~~ The term *Practice of Land Surveying*, as used in this (Title) Chapter should be left in.

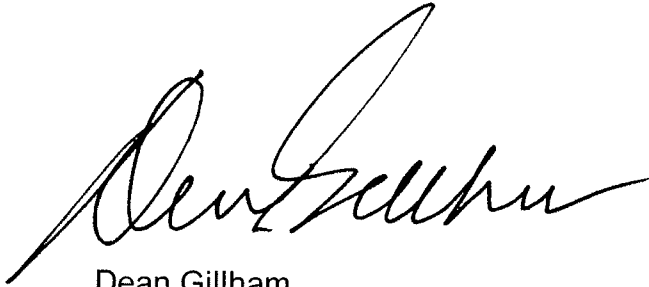
There appears to be a conflict between page 18, line 43, which states “*This work was prepared by me or under my (direct supervision) responsible control*” and page 21 lines 24-25 which state “*I hereby certify that this map was prepared by me or under my direct supervision*”

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Thank you for the opportunity to present written comments on this legislation. To iterate, I fully support Bill 25(LS).

Sincerely

A handwritten signature in black ink, appearing to read "Dean Gillham". The signature is fluid and cursive, with a large initial "D" and "G".

Dean Gillham

230 Julale Center - P.O. Box 3207
Agana, GU 96932

(671) 477-9224 / 477-9231 / 472-8758 - Fax: 477-3456

DEAN GILLHAM

Thursday, December 18, 2008

Senator James V. Espaldon

29th Guam Legislature Chairman, Committee on Judiciary, Natural Resources, Infrastructure & Cultural Affairs.

155 Hesler Street

Hagatna, Guam 96910.

Hafa Adai Senator Espaldon

I wish to thank you for introducing Bill 400(EC), for the interest you have displayed in updating The Professional Engineers, Architects and Land Surveyors Law and for affording me the opportunity to testify on Bill 400 (EC).

I fully support Bill 400 and my testimony relates more to some specific language rather than the substance or intent of Bill 400. I have attached an underlined copy of Bill 400 to facilitate review of my comments.

Page 6, line 35/36, page 21, lines 42 thru 45 and page 29, lines 41 thru 44 addresses **Construction Management**. References to Construction Management could be interpreted as giving any registered professional blanket authority to provide construction management. Please note page 19, lines 43 thru 47 and page 20 lines 1 thru 9 limits civil design to registered Civil Engineers, electrical engineering to registered Electrical Engineers etc. I suggest the intent of language relating to construction management is similar, i.e. **construction inspection, certifications**, etc for electrical installations is to be limited to Electrical Engineers, **construction inspection, certifications**, etc for mechanical installations is to be limited to Mechanical Engineers, etc.

Page 7, line 39. **Overall supervision of firm's licensed personnel...** Although this may be a matter of semantics I suggest **supervision** infers the supervisor has the same (or greater?) level of knowledge as the personnel being supervised. Assuming acceptance of the above definition, as a Civil Engineer and Structural Engineer, I certainly do not have the qualifications to supervise an Electrical Engineer. Perhaps another word such as coordination may be more appropriate.

Page 12, line 1. I suggest the wording **or request for comity**, or similar language be added to this sentence.

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Page 13, starting with line 6. Relative to **Registration by Comity**, the language **certificate of registration.....or any foreign country** could be interpreted as any person registered in any foreign is eligible for registration on Guam, even though any such interpretation appears to be belied by subparagraphs (bb) thru (ff). It appears to me that (aa) is unnecessary, somewhat confusing and open to misinterpretation, that (bb) thru (ee) or thru (ff) would suffice.

Page 19, lines 23 thru 25. As I understand the intent of this language, the registrant's location of residency is irrelevant, that the intent is that, for projects to be constructed on Guam, the design work must be either.

- Accomplished on Guam supervised by the registrant on a full time basis.
- If the work is accomplished outside Guam, the work can be sealed by a Guam registrant only if the registrant **supervised the work on a full-time basis** at the location at which the design work is being performed.

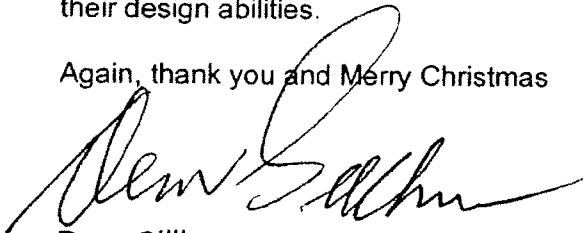
Although I believe this to be the intent, the draft language is not crystal clear.

With respect to the issue of design work for projects to be constructed on Guam being done off island, I agree with the witness(s) that this is a concern as it deprives Guam residents and their families of income. It is not uncommon for work to be done off island then certified by a Guam registrant even though that registrant did not perform the design work and did not supervise the design work. Lines 21 thru 27 of page 7 addresses this issue. Perhaps item (11) on page 23 (line 37) should be moved to the top of the list, in bold type and underlined. The PEALS Board may even wish to bring this particular provision to the attention of all Guam registrants via mail.

Finally, page 1, line 9, I suggest all persons reviewing this draft legislation remember the intent of the legislation is **to safeguard life, health and property, and to promote the public welfare** and that strict enforcement of The Professional Engineers, Architects and Land Surveyors Law is necessary to accomplish this goal.

The science of engineering is constantly changing as the result of continuing research. Many states make continuing education a requisite for registration renewal. I suggest Guam could better **safeguard life, health and property** by following suit, i.e. to make continuing education a requisite for registration renewal. Such action would also benefit engineers by enhancing their design abilities.

Again, thank you and Merry Christmas



Dean Gillham

Copies to

Mr. Paul Santos, PLS, Chairman, PEALS Board.

Ms. Betty Galye, Member, PE, PEALS Board

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1
2 For the purpose of this Chapter, words used in the masculine gender include the feminine, or vice-
3 versa, where appropriate.
4

5 (a) Engineer.

- 6 (1) Engineer — The term *Engineer*, within the intent of this Chapter shall mean a
7 person who, by reason of his special knowledge and use of the mathematical,
8 physical and engineering sciences and the principles and methods of engineering
9 analysis and design, acquired by engineering education and engineering experience,
10 is qualified to practice engineering.
- 11 (2) Professional Engineer — The term *Professional Engineer*, as used in this Chapter,
12 shall mean a person who is duly registered and licensed by the Guam Board of
13 Registration for Professional Engineers, Architects and Land Surveyors as a
14 Professional Engineer.
- 15 (3) Professional Engineer, Emeritus — The term *Professional Engineer, Emeritus* as
16 used in this Chapter, shall mean a person who is a *Professional Engineer, Retired*,
17 and who is sixty five (65) years of age; and has been a resident of Guam for at least
18 five (5) years; and has had no disciplinary action against him; and who applies to and
19 is approved by the Board to be granted the use of the honorific title, *Professional*
20 *Engineer, Emeritus*.
- 21 (4) Professional Engineer, Retired ---- The term *Professional Engineer, Retired* as used
22 in this Chapter, shall mean a person who has been duly licensed as a professional
23 engineer by the Board and who chooses to relinquish or not to renew a license and
24 who applies to and is approved by the Board to be granted the use of the honorific
25 title, *Professional Engineer, Retired*.
- 26 (5) Engineer Intern — The term *Engineer Intern*, as used in this Chapter, shall mean a
27 person who complies with the requirements for education, experience and character,
28 and has passed an examination in the fundamental engineering subjects, as provided
29 in §32113 and §32115 of this Chapter.
- 30 (6) Practice of Engineering — The term *Practice of Engineering*, as used in this
31 Chapter, means any service or creative work, the adequate performance of which

1 requires engineering education, training, and experience in the application of special
2 knowledge of the mathematical, physical, and engineering sciences to such services
3 or creative work as consultation, investigation, expert technical testimony,
4 evaluation, planning, design, and design coordination of engineering works and
5 systems, planning the use of land, air and water, teaching of advanced engineering
6 subjects, performing engineering studies and the review and/or management of
7 construction for the purpose of monitoring and/or ensuring compliance with drawings
8 and specifications; any of which embraces such services of work, either public or
9 private, in connection with any utilities, structures, buildings, machines, equipment,
10 processes, work systems, projects, communication systems, transportation systems,
11 and industrial or consumer products, or equipment of a control systems,
12 communications, mechanical, electrical, hydraulic, pneumatic, chemical,
13 environmental or thermal nature, insofar as they involve safeguarding life, health, or
14 property, and including such other professional services as may be necessary to the
15 planning, progress, and completion of any engineering services.

16 Design coordination includes the review and coordination of those technical
17 submissions prepared by others, including as appropriate and without limitation,
18 consulting engineers, architects, landscape architects, surveyors, and other
19 professionals working under the direction of the engineer.

20 A person shall be construed to practice or offer to practice engineering, within the
21 meaning and intent of this Chapter, who practices any branch of the profession of
22 engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any
23 other way represents themselves to be a professional engineer, or through the use of
24 some other title implies that they are a professional engineer or that they are licensed
25 under this Chapter; or who hold themselves out as able to perform, or who does
26 perform any engineering service or work or any other service designated by the
27 practitioner which is recognized as engineering.

- 28 (7) Consulting Engineer — The term *Consulting Engineer*, as used in this Chapter,
29 means a professional engineer whose principal occupation is the independent practice
30 of engineering; whose livelihood is obtained by offering engineering services to the
31 public; who services clients as an independent fiduciary; who is devoid of public,
32 commercial and product affiliation that might tend to infer a conflict of interest; and

1 who is cognizant of his public and legal responsibilities, and is capable of
2 discharging them.

3 (b) Architect.

4 (1) Architect — The term *Architect*, as used in this Chapter, shall mean a person, who
5 by reason of his knowledge of the mathematical, and physical sciences, and the principles of
6 architecture and architectural engineering acquired by professional education and practical
7 experience is qualified to engage in the practice of architecture and who has been duly
8 registered and licensed by the Guam Board of Registration for Professional Engineers,
9 Architects and Land Surveyors as an Architect.

10 (2) Practice of Architecture — The term *Practice of Architecture*, as used in this
11 Chapter, means any service or creative work, the adequate performance of which requires
12 architectural education, training and experience and the application of the mathematical and
13 physical sciences and the principles of architecture and architectural engineering to such
14 professional services or creative work as consultation, investigation, evaluation, planning,
15 design, construction management, supervision or observation of construction for the purpose
16 of assuring compliance with specifications and design in connection with any building which
17 has as its principal purpose human occupancy or habitation, any other building, or any
18 monument, structure, waterfront development, site development or project including
19 topographic work, grading and engineering incidental to the performance of any architectural
20 service or other services recognized by educational authorities as architecture.

21 (3) Registered Architect — The term *Registered Architect*, as used in this Chapter, shall
22 mean an Architect holding a current registration with the Guam Board of Registration for
23 Professional Engineers, Architects and Land Surveyors as a Registered Architect.

24 (4) Architect Emeritus — The term *Architect Emeritus*, as used in this Chapter, shall
25 mean a person who is an “Architect, Retired”; and who is sixty five (65) years of age; and
26 has been registered on Guam for at least five (5) years; and has been a resident of Guam for
27 at least five (5) years; and has had no disciplinary action against him; and who applies to and
28 is approved by the Board to be granted the use of the honorific title, *Architect, Emeritus*.

29 (5) Architect, Retired — The term *Architect, Retired*, as used in this Chapter, shall mean
30 a person who has been duly licensed as an Architect by the Board and who chooses to
31 relinquish or not to renew a license and who applies to and is approved by the Board to be
32 granted the use of the honorific title, *Architect, Retired*.

1 (c) Landscape Architect

2 (1) Landscape Architect — The term *Landscape Architect*, shall mean a person who has
3 been duly registered/licensed by the Board to engage in the practice of landscape
4 architecture in Guam.

5 (2) Practice of Landscape Architecture — The term *Practice of Landscape Architecture*
6 means:

7 (a) Those who hold themselves out as able to perform professional services such as
8 consultation, investigation, reconnaissance, research, design, preparation of drawings and
9 specifications, and responsible supervision where the dominant purpose of such services is
10 the preservation and enhancement of land uses and natural land features; the location and
11 construction of aesthetically pleasing and functional approaches for structures, roadways,
12 and walkways; and design for equestrian trails, plantings, landscape irrigation, landscape
13 lighting, and landscape grading. This practice shall include the location, arrangements, and
14 design of such tangible objects and features as are incidental and necessary for the purposes
15 outlined herein. Nothing herein shall preclude a duly registered landscape architect from
16 planning the development of land areas and elements used thereon or from performing any
17 of the services described in this section in connection with the settings, approaches, or
18 environment for buildings, structures, or facilities. A registered landscape architect shall not
19 practice or offer to practice architecture or any branch of engineering.

20 (b) A person is considered to be practicing or offering to practice landscape architecture,
21 within the meaning and intent of the law, who practices the profession of landscape
22 architecture or who, by verbal claim, sign, advertisement, letterhead, card or in any other
23 way represents themselves to be a landscape architect or through the use of some other title,
24 implies that they are licensed or holds themselves out as able to perform or who does
25 perform any landscape architecture service or work or any other service designated by the
26 practitioner which is recognized as landscape architecture.

27 (d) Land Surveyor.

28 (1) Land Surveyor — The term ‘Land Surveyor’, as used in this Chapter, shall mean a
29 person who is knowledgeable in the technique of measuring land, educated in the basic
30 principles of mathematics, the related physical and applied sciences, and relevant
31 requirements of law for adequate evidence and all requisite to the surveying of real property
32 and engaged in the practice of land surveying as herein defined.

1 (2) Professional Land Surveyor — The term *Professional Land Surveyor*, as used in this
2 Chapter, shall mean a person who is duly registered and licensed by the Guam Board of
3 Registration for Professional Engineers, Architects and Land Surveyors as a Professional
4 Land Surveyor, and who is a professional specialist in the technique of measuring land,
5 educated in the basic principles of mathematics, the related physical and applied sciences,
6 and the relevant requirements of law for adequate evidence and all requisite to surveying of
7 real property, and engaged in the practice of surveying as herein defined.

8 (3) Professional Land Surveyor, Emeritus — the term *Professional Land Surveyor,*
9 *Emeritus* as used in this Chapter, shall mean a person who is a professional land surveyor
10 retired; and who is sixty five (65) years of age; and has been registered on Guam for at least
11 five (5) years; and has been a resident of Guam for at least five (5) years; and has had no
12 disciplinary action against him; and who applies to and is approved by the Board to be
13 granted the use of the honorific title, *Professional Land Surveyor, Emeritus*.

14 (4) Professional Land Surveyor, Retired — the term *Professional Land Surveyor,*
15 *Retired* as used in this Chapter shall be a person who has been duly licensed as a
16 professional land surveyor by this Board and who chooses to relinquish or not to renew a
17 license and who applies to and is approved by the Board to be granted the use of the
18 honorific title, *Professional Land Surveyor, Retired*.

19 (5) Land Surveyor Intern —The term *Land Surveyor Intern*, as used in this Chapter,
20 means a person who has qualified for, taken and passed the land surveyor intern
21 examinations as provided in this Chapter.

22 (6) Practice of Land Surveying-----The term *Practice of Land Surveying* shall mean
23 providing, or offering to provide, professional services using such sciences as mathematics,
24 geodesy, and photogrammetry, and involving both (1) the making of geometric
25 measurements and gathering related information pertaining to the physical and or legal
26 features of the earth, improvements on the earth, the space above, on, or below the earth, and
27 (2) providing, utilizing or developing the same into survey products, such as graphics, data,
28 maps, plans, reports, descriptions, or projects. Professional services include acts of
29 consultation, investigation, testimony evaluation, expert technical testimony, planning,
30 mapping, assembling and interpreting gathered measurements and information related to any
31 one or more of the following:

- 1 a. Determining by measurement the configuration or contour of the earth's surface or
2 the position of fixed objects thereon.
- 3 b. Determining by performing geodetic surveys the size and shape of the earth or the
4 position of any point on the earth.
- 5 c. Locating, relocating, establishing, or retracing property lines or boundaries of any
6 tract of land, road, right-of-way, or easement.
- 7 d. Marking any survey for the division, subdivision, or consolidation of any tract(s) of
8 land.
- 9 e. Locating or laying out alignments, positions, or elevations for the construction of
10 fixed works.
- 11 f. Determining, by the use of principles of surveying, the position for any survey
12 monument (boundary or non-boundary) or reference point; establishing or replacing
13 any such monument or reference point.
- 14 g. Creating, preparing, or modifying electronic or computerized data, relative to the
15 performance of the activities in the above described items a through f.
- 16 h. Certifying, within the metadata of a Geographical Information System data base, the
17 positional accuracy of the features, cadastral and/or boundary lines, fixed objects,
18 utilities, images and graphically displayed data sets that are used for base mapping.

19 A person shall be construed to practice or offer to practice surveying, within the meaning and
20 intent of this Chapter, who by verbal claim, sign, advertisement, letterhead, card, or in any other
21 way represents themselves to be a land surveyor or through the use of some other title implies
22 that they are a professional land surveyor or that they are licensed under this Chapter; or who
23 hold themselves out as able to perform, or who does perform any surveying service or work or
24 any other service designated by the practitioner which is recognized as surveying except to
25 references to engineering surveys.

26 (e)Approved School — The term *Approved School* as used in this Chapter, shall mean
27 institutions offering curricula leading to first professional degrees in engineering, architecture,
28 landscape architecture or land surveying and are accredited by the Accreditation Board for
29 Engineering and Technology, Inc., or the NCEES Center for Professional Engineering
30 Education Services or the National Architectural Accrediting Board.

31 (f)ARE — The term *ARE* as used in this Chapter shall mean the current Architect Registration

1 Examination prepared by the National Council of Architectural Registration Boards.

2 (g) Association — The term *Association* as used in this Chapter, shall mean the act of a number
3 of persons in uniting together for some special purpose or business. It is a term of vague
4 meaning used to indicate a collection or organization of persons who have joined together
5 for a certain or common objective.

6 (h)Board — The term *Board*, as used in this Chapter shall mean the Guam Board of Registration
7 for Professional Engineers, Architects, and Land Surveyors, hereinafter provided by this
8 Chapter.

9 (i) Certificate of Authorization — The term *Certificate of Authorization* as used in this Chapter,
10 shall mean those presents issued by the Guam Board of Registration for Professional
11 Engineers, Architects and Land Surveyors to a corporation, partnership, proprietorship,
12 limited liability company, or other legal entity allowed by Guam Law the name of that
13 organization which serves to identify it as having the legal right to offer engineering,
14 architectural, landscape architectural, land surveying or construction management services.

15 (j) Certificate of Registration — The term *Certificate of Registration* as used in this Chapter
16 shall mean those presents issued by the Guam Board of Registration for Professional
17 Engineers, Architects, Landscape Architects and Land Surveyors to an individual in his own
18 name, which serves to identify those legally entitled to practice engineering, architecture,
19 landscape architecture or land surveying.

20 (k) CLARB — The term *CLARB* as used in this Chapter shall mean the Council of Landscape
21 Architectural Registration Boards.

22 (l) Construction Management —The term *Construction Management*, as used in this Chapter,
23 to be performed by licensed or registered engineers, architects, landscape architects, or land
24 surveyors, shall include but not be limited to professional services during construction such
25 as permitting process and coordination, bid evaluation and contract award, processing of
26 payment requests and change orders, claims and dispute resolution, review and approval of
27 submittals and progress schedules, onsite quality assurance inspections and testing, survey
28 checks, compliance to contract documents, and contract closeout including as-built drawings
29 and Operation & Maintenance manuals and training.

30 (m)Corporation — The term *Corporation*, as used in this Chapter, shall mean an association of
31 individuals or legal entity created by or under the authority of the laws of a territory, state or
32 nation, composed, in some rare instances, of a single person and his successors, being the

1 incumbents of a particular office, but ordinarily consisting of an association of numerous
2 individuals.

3 (n)CSCS--- The term *CSCS* as used in this Chapter shall mean the California Special Civil
4 Seismic examination prepared by the California Board of Professional Engineers and Land
5 Surveyors.

6 (o)IDP — The letters ‘IDP’ as used in this Chapter shall mean Intern Development Program
7 prepared and issued by the NCARB.

8 (p)L.A.R.E. — The letters ‘L.A.R.E.’ as used in this Chapter shall mean the landscape
9 architect registration examination prepared by the Council of Landscape Architectural
10 Registration Boards.

11 (q) NAAB --- The term “NAAB” as used in this Chapter shall mean National
12 Architectural Accrediting Board.

13 (r)NCARB — The term ‘NCARB’ as used in this Chapter shall mean the National Council of
14 Architectural Registration Boards.

15 (s)NCEES — The term ‘NCEES’ as used in this Chapter shall mean the National Council of
16 Examiners for Engineering and Surveying.

17 (t)Partner — The term *Partner* as used in this Chapter, shall mean one who has united with
18 others to form a partnership in business.

19 (u)Proprietorship — The term *Proprietorship* as used in this Chapter, shall mean business,
20 usually unincorporated, owned and controlled exclusively by one person. Such a business is
21 commonly designated a ‘sole proprietorship’.

22 (v)Registrant or Licensee — The term *Registrant or Licensee* as used this Chapter shall mean
23 any person holding a current registration as a Professional Engineer, Registered Architect,
24 Landscape Architect or Professional Land Surveyor.

25 (w) Responsible Control — The term *Responsible Control*, as used in this Chapter, shall mean
26 that amount of control over and detailed knowledge of the content of the technical
27 submission during their preparation as is ordinarily exercised by professional engineers,
28 registered architects, registered landscape architects and/or professional land surveyors
29 applying the required professional standard of care. Reviewing, or reviewing and correcting,
30 technical submissions after they have been prepared by others does not constitute the
31 exercise of responsible control because the reviewer has neither control over nor detailed
32 professional knowledge of the content of such submissions throughout their preparation.

1 (x)Responsible Managing Employee — The term *Responsible Managing Employee*, as used in
2 this Chapter, shall mean a person who is licensed under this Chapter and who has been
3 designated pursuant to §32123 of this Chapter by the firm. The managing employee is
4 responsible for the engineering, architecture, landscape architecture or land surveying work
5 on Guam and/or for projects or property within this jurisdiction offered or provided by the
6 firm. A licensee may not be designated as a responsible managing employee for more than
7 one (1) firm. An engineer, architect, landscape architect or surveyor who renders occasional
8 part-time, or consulting services to, or for, a firm may not be designated as a managing
9 employee. The managing employee’s responsibilities include:

- 10 1. Renewal of the Certificate of Authorization and notification to the Board of any change
11 in the managing employee.
- 12 2. Overall management of the firm’s licensed and subordinate personnel providing the
13 engineering, architecture or surveying work in this jurisdiction.
- 14 3. Institution and adherence of policies of the firm that are in accordance with the Rules of
15 Professional Conduct, adopted pursuant to Section 32109(e) of this Chapter.

16 (y)Rules of Professional Conduct for Professional Engineers, Architects, Landscape
17 Architects, and Land Surveyors — The term *Rules of Professional Conduct for Professional*
18 *Engineers, Architects, Landscape Architects and Land Surveyors* as used in this Chapter,
19 means those rules promulgated by the Board as authorized by law.

20 (z)Technical Submissions — Designs, drawings, specifications, studies, and other technical
21 documents prepared in the course of practicing engineering, architecture, landscape
22 architecture and land surveying. All technical submissions shall be identified by date and by
23 name and address of the licensee or licensee’s firm.

24 (aa) WCARB — The term *WCARB* as used in this Chapter, shall mean the Western
25 Conference of Architectural Registration Boards.

26 **§32104. Board Appointments; Terms.** A Guam Board of Registration for Professional
27 Engineers, Architect and Land Surveyors is created whose duty shall be to administer the provisions
28 of this Chapter.

29 (a) The Board shall consist of seven (7) members, at least two (2) being female, to be
30 constituted as follows: the Director of Public Works, five (5) members who shall be
31 registered under the provisions of this Chapter and one (1) member of the general public
32 who shall not have been registered under the provisions of this Chapter or practicing in any

1 of the professions covered by this Chapter. Except for the Director of Public Works, a
2 member shall be appointed by *I Maga'lahaen Guåhan* (Governor) for a term of four (4) years.
3 Of the five (5) registered professional members, two (2) shall be registered architects (of
4 which one (1) may be a landscape architect), two (2) shall be professional engineers, and one
5 (1) shall be a professional land surveyor.

6 (b) The Chairman, Vice-Chairman and Secretary/Treasurer shall be elected annually by
7 majority vote of the Board members at the first regular meeting of the Board after January 1.

8 (c) Each member of the Board shall receive a notice of his appointment from the *I*
9 *Maga'lahaen Guåhan* (Governor) and shall take an oath for the faithful discharge of his
10 duties. Appointments to the Board shall be in such manner so that the term of each member
11 shall expire at a different time. On the expiration of the term of any member, *I Maga'lahaen*
12 *Guåhan* (Governor) shall appoint a successor. A member may be reappointed to succeed
13 himself but not for more than two (2) consecutive terms. Each member may hold office until
14 the expiration of the term for which appointed or until his successor has been duly appointed
15 and qualified.

16 (d) In the event of a vacancy on the Board for reason resulting in an unexpired term and *I*
17 *Maga'lahaen Guåhan* (Governor) failing to appoint a successor within three (3) months after
18 the vacancy occurs, the Board may appoint a provisional member to serve in the interim
19 until the *I Maga'lahaen Guåhan* (Governor) makes an appointment.

20 **§32105. Board -- Qualifications of Members.** Each member of the Board shall be a citizen
21 of the United States and a resident of Guam. Board members who are required to be
22 registered pursuant to §32104 of this Chapter shall have been in responsible control in
23 the lawful practice of engineering, architecture, landscape architecture or land surveying
24 for at least eight (8) years and with no record of disciplinary action from any jurisdiction.
25 The public member of the Board shall not be or have been an engineer, architect or land
26 surveyor.

27 **§32106. Board -- Compensation and Expenses.** (a) Each member of the Board shall be
28 entitled to receive compensation as provided for in the rules and regulations and by law
29 and shall be reimbursed for reasonable and necessary expenses incurred in the course of
30 official duties, when attending to the work of the Board or any of its committees and
31 during time spent in necessary travel.

1 (b) Members shall be reimbursed for conference or convention registration fees,
2 all actual traveling, incidental and clerical expenses necessarily incurred in carrying out
3 the provisions of this Chapter.

4 (c) The Board shall budget for and pay travel expenses of members of the Board,
5 officers, consultants and staff, as approved by the Board and certified by the Chairman.

6 **§32107. Board -- Removal of Members; Vacancies.** The *I Maga'lahaen Guåhan* (Governor)
7 may remove any member for misconduct, incompetence, neglect of duty, or any
8 sufficient cause, in the manner prescribed by law for removal of territorial officials.
9 Vacancies in the membership of the Board shall be filled for the unexpired term by
10 appointment by the *I Maga'lahaen Guåhan* (Governor) as provided in §32104.

11 **§32108. Board -- Organization and Meetings.** The Board shall hold at least six (6) regular
12 meetings each year. Special meetings may be held as the rules and regulations of the Board provide.
13 A quorum of the Board shall consist of not less than four (4) members, three (3) of whom shall be
14 registered under the provisions of this Chapter.

15 **§32109. Board -- Powers.** (a) The Board shall have the power to adopt and amend all by-
16 laws and rules of procedure not inconsistent with the Organic Act of Guam and laws of Guam,
17 including the adoption and promulgation of Rules of Professional Conduct for Professional
18 Engineers, Architects, Landscape Architects and Land Surveyors, which shall be binding upon
19 persons registered under this Chapter and which shall be applicable to corporations, partnerships or
20 associations holding a Certificate of Authorization, which may be reasonably necessary for the
21 proper performance of its duties and the regulation of its procedures, meetings, records,
22 examinations and the conduct thereof. These actions by the Board shall be binding upon the persons
23 licensed or registered under this Chapter and on non-licensees found by the Board to be in violation
24 of provisions of the Chapter and shall be applicable to corporations holding a certificate of
25 authorization as provided in Section 32123 of this Chapter.

26 (b) The Board shall adopt and have an official seal, which shall be affixed to each
27 certificate issued.

28 (c) In carrying into effect the provisions of this Chapter, the Board under the hand of its
29 Chairman and the seal of the Board, may subpoena witnesses and compel their attendance and also
30 may require the submission of books, papers, documents, or other pertinent data, in any
31 disciplinary matters, or in any case wherever a violation of this Chapter is alleged. Upon failure or
32 refusal to comply with any such order of the Board, or upon failure to honor its subpoena, as herein

1 provided, the Board may apply to a court of any jurisdiction to enforce compliance with same.

2 (d) The Board, in the name of Guam, may apply for relief by injunction in the Superior
3 Court, without bond, to enforce the provisions of this Chapter, or to restrain any violation thereof.
4 In such proceedings, it shall not be necessary to allege or prove, either that an adequate remedy at
5 law does not exist, or that substantial or irreparable damage would result from the continued
6 violation thereof. The members of the Board shall not be personally liable under these proceedings.

7 (e) The Board shall have prepared and shall adopt a set of rules for professional conduct
8 which shall be binding upon persons registered under this Chapter, and which shall be made known
9 in writing to every registrant and applicant for registration under this Chapter, and which shall be
10 published in the roster provided for in §32112 of this Chapter. The Board may revise and amend
11 these rules for professional conduct from time to time and shall forthwith notify each registrant in
12 writing of such revisions or amendments.

13 (f) The adoption and amendment of such rules and regulations and rules of procedure
14 and rules of professional conduct shall be in accordance with the provisions of the Administrative
15 Adjudication Law.

16 (g) The Board may subject an applicant for registration to such examinations as may be
17 provided for in the rules and regulations to determine his qualifications.

18 (h) The Board shall encourage private professional engineering, architectural, landscape
19 architectural, and land surveying societies to conduct seminars to prepare applicants for the
20 examinations and shall assist in the coordination of the seminars.

21 (i) The Board shall have the power and authority to require a demonstration of
22 continuing professional competency of engineers, architects, landscape architects and land surveyors
23 as a condition of renewal or relicensure.

24 (j) The Board shall have the authority for citation and fining persons and business
25 entities engaged in the unlawful practice of engineering, architecture, landscape architecture and
26 land surveying who are not licensed or authorized in this jurisdiction in accordance with Sections
27 32121 and 32122, and as provided by law.

28 (k) The Board shall maintain the PEALS Revolving Fund within the cognizance of the
29 members of the Board to continue to manage the day-to-day financial obligations of the Board.
30 Such revolving fund shall be maintained separate and apart from other funds of the government of
31 Guam, and independent records and accounts shall be maintained in connection therewith as
32 prescribed by the Chairman and members of the Board. Furthermore, said Fund shall be subject to

1 an annual audit by an independent auditor.

2 (l) The Board shall have the power to appoint committees to assist the Board's efforts in
3 carrying out the responsibilities of this Chapter.

4 (m) The Board shall have the power to adopt and collect fees in amounts necessary to
5 enable the Board to carry out its function under this Chapter.

6 (n) The Board shall retain and exercise all administrative and civil rights and remedies
7 commonly available to agencies in the jurisdiction. No action or other legal proceedings for
8 damages shall be instituted against the Board or against any Board Member or employee or agent of
9 the Board for any act done in good faith and in the intended performance of any power granted
10 under this Chapter or for any neglect or default in the performance or exercise in good faith of any
11 such duty or power.

12 **§32110. Records and Reports.** (a) The Board shall keep a record of its proceedings and of
13 all applications for registration, which record shall show:

14 (1) the applicant's name, age and last known address;

15 (2) the date of the application;

16 (3) the applicant's place of business;

17 (4) the applicant's education, experience and other qualifications;

18 (5) the type of examination required;

19 (6) whether or not the applicant was rejected;

20 (7) whether or not a certificate of registration was granted;

21 (8) the date of the action by the Board; and

22 (9) such other information as may be deemed necessary by the Board.

23 (b) The record of the Board shall be *prima facie* evidence of the proceedings of the
24 Board, and a transcript thereof, duly certified by the Secretary under seal, shall be admissible
25 as evidence with the same force and effect as if the original were produced.

26 (c) At the end of every fiscal year, the Board shall prepare and submit to *I Maga'laha*
27 *Guåhan* (Governor) and to *I Liheslaturan Guåhan* no later than the first day of
28 November, a report of its transactions of the preceding year, and shall transmit to them a
29 complete statement of the receipts and expenditures of the Board, attested by affidavits
30 of its Chairman and its Secretary/Treasurer.

31 (d) Board records and papers of the following class are of a confidential nature and are not
32 public records: all examination materials for examinations not yet given and examination

1 solutions for which the grades have not yet been published; file records of examination
2 problem solutions, letters of inquiry and reference concerning applicants, Board inquiry
3 forms concerning applicants, investigation files where any investigation is still pending,
4 and all other matters of like confidential nature.

5 **§32111. Receipts and Disbursements.** (a) Notwithstanding the Central Accounting Act,
6 all fees and money collected under the provisions of this Chapter shall be deposited in a special fund
7 known as the *Professional Engineers, Architects and Land Surveyors Fund*. This fund shall be kept
8 in a bank licensed to do business on Guam and funds shall be paid out only upon a request for
9 payment or requisition submitted by the Secretary/Treasurer or its personnel and countersigned by
10 the Chairman of the Board. All monies in this fund are hereby specifically appropriated only for the
11 use of the Board in pursuit of its authority.

12 (b) The Board shall provide surety bonds in the name of Guam on behalf of the Chairman, the
13 Secretary/Treasurer and the Executive Board Administrator, in the sum of Thirty Thousand Dollars
14 (\$30,000) each. The premium on said bonds shall be regarded as proper and necessary expenses of
15 the Board.

16 (c) Upon an appropriation by *I Liheslaturan Guåhan* and subject to any limitations which may
17 be contained therein, the Board shall make expenditures from this fund for any purpose which is
18 approved by the Board as reasonable and necessary for the proper performance of its duties under
19 this Chapter, including the expenses of the Board delegates to meetings of and the membership fees
20 to the National Council of Examiners for Engineering and Surveying and any of its subdivisions and
21 the National Council of Architectural Registration Boards and any of its subdivisions, Council of
22 Landscape Architectural Registration Boards and any of its subdivisions.

23 (d) The Board shall employ in the classified positions an Executive Board Administrator,
24 Administrative Assistant, Board Investigator and other administrative staff as are necessary for the
25 proper performance of its work. Salaries and other terms of compensation for each Board staff
26 position shall be determined by the Department of Administration. Payments of expenses and
27 salaries pursuant to the administration of this Chapter may not exceed available funds of the Board.

28 (e) The Chairman of the Board is the designated Certifying Officer and all expenditures from
29 the fund shall be certified by the Chairman of the Board. Under no circumstance shall the amount of
30 warrants issued in payment of the expenses and compensation provided for in this Chapter exceed
31 the amount of money collected.

32 (f) The Board shall adopt rules or regulations to provide for an annual budget, an accounting

1 procedure, and the fees for application, registration, examination, re-examination, reciprocity,
2 renewal of registration, temporary permits, corporation permits, replacement of certificates,
3 reconsideration of application, and other services.

4 (g) The Board shall maintain membership in NCARB, NCEES and its subdivisions and pay the
5 necessary costs thereof.

6 **§32112. Roster.** A complete roster showing the names and last known addresses of all
7 registered engineers, architects, landscape architects, land surveyors, and business entities shall be
8 published by the Secretary of the Board annually not later than the last day of the third month of
9 each year, and shall include each registrant's certificate or registration number. The roster shall be in
10 non-editable electronic format which is printable and available via the internet. Notice of the
11 publication and availability of the roster shall be mailed to each person so registered, paper copies
12 of the roster shall be placed on file with *I Maga'lahañ Guåhan*, the Speaker of *I Liheslaturan*
13 *Guåhan*, and other state and territorial boards, and with each department and agency of the
14 Government of Guam.

15 **§32113. General Requirements for Registration.** (a) No person shall be eligible for
16 admission to the examination for registration for professional engineer, architect, landscape architect
17 or land surveyor, or for enrollment as an engineer intern or land surveyor intern, under this Chapter
18 unless he:

19 (1) is a citizen of the United States or a legally admitted alien authorized to work in the
20 United States;

21 (2) is of good moral character and repute.

22 (3) meets the professional qualifications prescribed by this Chapter; and;

23 (4) submits five (5) references with the applicant's application for registration as a
24 professional engineer, architect, landscape architect or land surveyor, three (3) of which
25 shall be from practitioners registered in the discipline in which he seeks registration and
26 having personal knowledge of his experience in that discipline, or in the case of an
27 application for certification as an engineer intern or land surveyor intern, by three (3)
28 character references.

29 (b) The following shall be considered as minimum evidence satisfactory to the Board that the
30 applicant is qualified for registration:

31 (1) as a Professional Engineer:

32 (i) Licensure or Registration by Examination — An Engineer Intern with a

1 specific record of an additional four years or more of progressive experience on
2 engineering projects of a grade and character which indicates to the Board that the
3 applicant may be competent to practice engineering at least one (1) year of which shall
4 have been under the supervision of a registered professional engineer shall be admitted to
5 a current form of examination in the principles and practices of engineering, and in the
6 case of specific engineering disciplines, other examinations as prescribed in the by-laws.
7 (Upon passing such examination(s), the applicant shall be granted a certificate of
8 registration to practice engineering on Guam, provided the applicant is otherwise
9 qualified.)

10 (ii) Graduation, Experience and Examination — A graduate of an engineering or
11 related science curriculum of four (4) years or more, other than the ones approved by the
12 Board as being of satisfactory standing, and with a specific record of eight (8) years or
13 more of progressive experience, at least two (2) years of which shall have been under
14 the supervision of a registered engineer on projects of a grade and character which
15 indicates to the Board that the applicant may be competent to practice engineering, shall
16 be admitted to a current form of examination in the fundamentals of engineering and a
17 current form of examination in the principles and practice of engineering as prescribed
18 in the by-laws. Upon passing such examination, the applicant shall be granted a
19 certificate of registration to practice engineering on Guam, provided the applicant is
20 otherwise qualified.

21 (iii) A Non-graduate from a Technical Curriculum — A non-graduate of an
22 engineering or related science curriculum of four (4) years or more, with a specific
23 record of three (3) years or more in such a curriculum plus twelve (12) years or more of
24 progressive experience on engineering projects four (4) years of which must have been
25 under the supervision of a registered engineer and of which at least six (6) years have
26 been in responsible control of engineering projects of a grade and character which
27 indicates to the Board that the applicant may be competent to practice engineering, shall
28 be admitted to a current form of examination in the fundamentals of engineering and the
29 principles and practice of engineering as prescribed in the by-laws. Upon passing such
30 examination, the applicant shall be granted a certificate of registration to practice
31 engineering on Guam, provided the applicant is otherwise qualified.

32 (iv) Licensure or Registration by Comity or Endorsement — A person whose

1 qualifications meet the requirements of this Chapter may, upon application, be
2 registered as a professional engineer identical to his active engineer registration in other
3 jurisdictions if the person meets all the requirements below:

4 (aa) the applicant holds a current certificate of registration in the practice
5 of engineering issued by a proper authority of a jurisdiction or possession of the
6 United States, the District of Columbia or any foreign country, based on
7 requirements that do not conflict with the provisions of this Chapter from which a
8 certificate of registration is recognized by the National Council of Examiners for
9 Engineering and Surveying and possessing credentials that are, in the judgment of the
10 Board, of a standard not lower than specified in the applicable section of this
11 Chapter in effect in Guam at the time such certificate was issued may upon
12 application, which may include a Council Record with NCEES, be registered or
13 licensed without further examination except as required to present evidence of
14 knowledge of statutes, rules, and design requirements unique to this jurisdiction,
15 provided that ;

16 (bb) he holds a valid certificate issued by the Committee on National
17 Council of Engineering Certification of the National Council of Examiners for
18 Engineering and Surveying;

19 (cc) the applicant passes the California Special Civil Seismic examination
20 (for Civil Engineering applicants only);

21 (dd) the applicant passes the Fundamentals of Engineering examination
22 (for applicants with Fundamentals of Engineering waivers from other jurisdictions);
23 and

24 (ee) the applicant maintains current registration with at least one other
25 jurisdiction, the District of Columbia, a territory or a possession of the United States.

26 (ff) A person holding an active Council Record with the NCEES, whose
27 qualifications as evidenced by the Council Record, meet the requirements of this
28 Chapter, may, upon application, be licensed or registered without further examination
29 except as required to examine the applicant's knowledge of statutes, rules and design
30 requirements unique to this jurisdiction, provided the applicant passes the California
31 Special Civil Seismic (CSCS) examination (for Civil engineering applicants only).

1 (v) Engineering Teaching — Engineering teaching in a college or university offering an
2 approved engineering curriculum of four (4) years or more may satisfy only a portion of
3 the required engineering experience.

4 (2) As an Engineer Intern:

5 (i) A college senior or a graduate of an engineering curriculum of four (4) years or more,
6 accredited by EAC/ABET, or the equivalent shall be admitted to the current form of
7 examination in the Fundamentals of Engineering prepared and furnished by NCEES.
8 Upon passing such examination and providing proof of graduation, the applicant shall be
9 certified or enrolled as an engineer intern, if the applicant is otherwise qualified.

10 (ii) Experience and Examination — An applicant with a record of six (6) or more years of
11 experience in engineering work of a grade and character satisfactory to the Board, and
12 who passes the examination as prescribed in the by-laws shall be certified or enrolled as
13 an engineer intern, if the applicant is otherwise qualified.

14 (iii) Graduation, Experience and Examination — A graduate of an engineering or related
15 science curriculum of four (4) years or more, other than the ones approved by the Board
16 as being of satisfactory standing, shall be admitted to an examination as prescribed in the
17 by-laws. Upon passing such examination, the applicant shall be certified or endorsed as
18 an engineer intern, if the applicant is otherwise qualified.

19 (3) As an Architect:

20 (i) Education, Experience and Examination — A graduate of an NAAB accredited
21 program from a school of architecture approved by the Board as being of satisfactory
22 standing and with at least three (3) years of progressive experience satisfactory to the
23 Board in architectural work covering the major categories of architectural practice, at
24 least two (2) years of which shall have been under the supervision of a registered
25 architect, shall be eligible for a current form of examination as prescribed in the rules
26 and regulations. Upon passing such examination, the applicant shall be granted a
27 certificate of registration to practice architecture in Guam, if the applicant is otherwise
28 qualified.

29 (aa) Effective June 1, 2009, a new or inactive candidate applying to the Board for
30 eligibility evaluation for the Architect Registration Examination (ARE) shall prior to
31 registration or licensure complete the Intern Development Program (IDP) of the National
32 Council of Architectural Registration Boards (NCARB), as defined herein and in the

1 rules and regulations set forth, and the most recent or current form of IDP guidelines
2 prepared and prescribed by the NCARB. The IDP requirement does not apply to a
3 candidate who: (a) was determined by the Board to be eligible on or before May 31,
4 2009 and who is active in the examination process; or (b) has completed all the
5 necessary education equivalents prior to June 1, 2009, who has submitted a completed
6 application for eligibility evaluation to the Board that is postmarked on or before May
7 31, 2009, and who has been determined by the Board to be eligible.

8 (bb) A new or inactive candidate shall submit an Application form, as prescribed
9 and furnished by the Board, and accompanied by such supporting documents required
10 herein. Such supporting documents shall include the candidate's current and valid IDP
11 file transmitted by NCARB.

12 (cc) As a candidate acquires additional work experience, it is the candidate's
13 responsibility to ensure that his/her employer(s) complete Employment Verification
14 Forms covering the work experience gained with that employer and that the forms are
15 submitted to the Board. Reporting shall be as per most current NCARB policies and
16 procedures.

17 (dd) Completion of the IDP shall fulfill the lawful experience requirement
18 provided in this Chapter and in the rules and regulations.

19 (ii) Experience and Examination — An applicant having eight (8) years of architectural training
20 or educational experience satisfactory to the Board of which a minimum of three (3) years
21 shall be experience covering the major categories of architectural practice under the
22 supervision of a registered architect, shall be eligible for a current form of examination as
23 prescribed in the rules and regulations. Upon passing such examination, the applicant shall
24 be granted a certificate of registration to practice architecture on Guam, if the applicant is
25 otherwise qualified.

26 (iii) Licensure or Registration by Comity or Endorsement — A person shall be licensed or
27 registered without further examination, if that person:

28 (aa) holds a current and valid registration issued by a registration authority recognized by the
29 Board; and

30 (bb) holds a National Council of Architectural Registration Board's Record; and

31 (cc) files his application with the Board, upon a form prescribed and furnished by the Board,
32 containing such information satisfactory to the Board, concerning the person, as the Board

1 considers pertinent.

2 (4)As a Landscape Architect:

3 (i) Licensure or Registration by Comity or Endorsement: A person, shall be registered without
4 further examination, if that person:

5 (aa) holds a current and valid registration to engage in the practice of landscape architecture
6 issued by a proper authority of a state or jurisdiction or possession of the United States, the
7 District of Columbia or any foreign country, have successfully passed a Council of
8 Landscape Architectural Registration Boards (CLARB) landscape architectural registration
9 examination (LARE); or

10 (bb) holds a current and active Council Record issued by the CLARB; and

11 (cc) files his application on a form prescribed and furnished by the Board, containing such
12 information satisfactory to the Board, concerning the person as the Board considers
13 pertinent.

14 (5)As a Land Surveyor:

15 The evaluation of a professional surveyor applicant's qualifications involves consideration of
16 education, technical, and surveying experience, exhibits of surveying projects with which the
17 applicant has been associated, recommendations by references, and a review of these categories
18 during the interview if the Board deems it necessary. The following shall be considered as
19 minimum evidence to the Board that the applicant is qualified for registration or licensure as a
20 professional surveyor:

21 (i) Licensure or Registration by Examination — A Surveyor Intern with a specific record of an
22 additional four (4) years of combined office and field experience satisfactory to the Board, in
23 surveying, of which a minimum of three (3) years' progressive experience has been on
24 surveying projects under the supervision of a professional surveyor shall be eligible to take
25 the current form of examination prepared and furnished by the NCEES in the principles and
26 practice of land surveying, and in Guam Land Matters as prescribed in the by-laws. (Upon
27 passing such examination, the applicant shall be granted a certificate of registration to
28 practice land surveying on Guam, provided the applicant is otherwise qualified.)

29 (ii) Education, Experience and Examination — A graduate of a surveying or related science
30 curriculum of four (4) years or more, other than the ones approved by the Board as being of
31 satisfactory standing, and with a specific record of an additional eight (8) years of combined

1 office and field experience satisfactory to the Board in land surveying of which a minimum
2 of three (3) years experience has been in responsible control of land surveying projects under
3 the supervision of a registered land surveyor, shall be admitted to a current form of
4 examination in the fundamentals of land surveying, in the principles and practice of land
5 surveying and in Guam Land Matters as prescribed in the by-laws. Upon passing such
6 examination, the applicant shall be granted a certificate of registration to practice land
7 surveying on Guam, provided he is otherwise qualified.

8 (iii) Experience and Examination — An applicant with a specific record of twelve (12) years or
9 more of practice in land surveying, of which at least eight (8) years have been in responsible
10 control of important land surveying work under the supervision of a registered land
11 surveyor, and of a grade and character satisfactory to the Board which indicates to the Board
12 that the applicant may be competent to practice land surveying, and who has passed an
13 examination in the fundamentals of land surveying, in the principles and practice of land
14 surveying and in Guam Land Matters, shall be granted a certificate of registration to practice
15 land surveying on Guam, provided he is otherwise qualified.

16 (iv) Licensure or Registration by Comity or Endorsement —

17 (aa) A person holding a certificate of registration to engage in the practice of land
18 surveying issued by a proper authority of a jurisdiction or possession of the United
19 States or the District of Columbia, or any foreign country, based on requirements that do
20 not conflict with the provisions of this Chapter, and possessing qualifications that are, in
21 the judgment of the Board, not lower than that specified in the applicable licensure act in
22 effect in this jurisdiction at the time such certificate was issued, may upon application,
23 which may include a Council Record with the NCEES, be licensed without further
24 examination except as required to present evidence of knowledge of statutes, rules and
25 surveying requirements unique to this jurisdiction, provided that the applicant shall be
26 required to pass a written examination of not less than four (4) hours duration on Guam
27 Land Matters, which shall include questions on laws, procedures and practices pertaining
28 to land surveying on Guam.

29 (bb) A person holding an active Council Record with the NCEES, whose qualifications as
30 evidenced by the Council Record, meet the requirements of this Chapter, may, upon
31 application, be licensed without further examination except as required to examine the
32 applicant's knowledge of statutes, rules and surveying requirements unique to this

1 jurisdiction, provided that the applicant shall be required to pass a written examination of
2 not less than four (4) hours duration on Guam Land Matters, which shall include
3 questions on laws, procedures and practices pertaining to land surveying on Guam.

4 (v) Surveying Teaching — Surveying teaching in a college or university offering an approved
5 surveying curriculum of four (4) years or more may be considered as land surveying
6 experience satisfactory to the Board.

7 (6) As a Land Surveyor Intern:

8 (i) Education and Examination — A college senior or a graduate of surveying curriculum of
9 four (4) years or more approved by the Board as being of satisfactory standing shall be
10 admitted to a current form of examination in the fundamentals of land surveying, as
11 prescribed in the by-laws. Upon passing such examination, the applicant shall be certified or
12 enrolled as a land surveyor intern, if he is otherwise qualified.

13 (ii) Education, Experience and Examination — An applicant, upon satisfactory completion of a
14 land surveying or related science curriculum of two (2) years or more, and with a specific
15 record of an additional (4) years of combined office and field experience in land surveying
16 satisfactory to the Board, shall be admitted to a current form of examination in the
17 fundamentals of land surveying as prescribed in the by-laws. Should the applicant fail to
18 pass the fundamentals of land surveying examination on two occasions, the applicant shall
19 be required to complete a refresher course satisfactory to the Board before being readmitted
20 for examination. Upon passing such examination, the applicant shall be certified or enrolled
21 as a land surveyor intern, if he is otherwise qualified.

22 **§32114. Application and Registration Fees.** (a) Application for registration as a professional
23 engineer, architect, landscape architect or land surveyor or for certification as an engineer intern or
24 land surveyor intern, or for certificates of authorization, shall be on a form prescribed and furnished
25 by the Board. It shall contain statements made under oath showing the applicant's education and a
26 detailed summary of his technical and engineering, architectural, landscape architectural and land
27 surveying experience, and shall include the names and complete mailing addresses of his references,
28 none of whom is a current member of the Board, as required in §32113 of this Chapter.

29 The Board may accept the certified information contained in a valid Council Record issued by
30 the National Council of Examiners for Engineering and Surveying Committee on National
31 Engineering Certification for professional engineer applicants or a valid Council Record issued by
32 the National Council of Architectural Registration Boards for architect applicants in lieu of the same

1 information that is required on the form prescribed and furnished by the Board.

2 (b) The application (for individuals and COAs), examination, and registration (for individuals
3 and COAs) fees shall be prescribed by the Board and shall be specified in the rules and regulations.

4 (c) No fee refund will be made after the application has been received and acted upon by the
5 Board even if registration is denied.

6 **§32115. Examinations.** (a) The applicant may be subjected to such examinations as may be
7 deemed necessary to determine his qualifications. The examinations will be held at such times and
8 place as the Board may direct.

9 (b) Examinations as specified in the rules and regulations may be taken only after the applicant
10 has met the other minimum requirements as provided for by §32113.

11 (c) A candidate failing an examination may apply for re-examination, which may be granted
12 upon payment of a fee established by the Board.

13 (d) A candidate whose grade in a previous examination indicates that he is unprepared may at
14 the discretion of the Board be required to wait one (1) year before being eligible for re-examination.

15 (e) The Board shall have prepared and adopted a syllabus for the examinations in engineering,
16 architecture, landscape architecture and land surveying. It shall be published in brochure form and
17 be available as a handout to any person interested in being registered as a professional engineer,
18 architect, landscape architect or land surveyor.

19 (f) Members of the PEALS Board are prohibited from taking any engineering, architecture,
20 landscape architecture or land surveying examination administered on Guam while serving on the
21 Board. However, members may take such in another jurisdiction and have the examination scores
22 accepted on Guam by the Board, so long as said examination does not conflict with the provisions
23 of this Chapter and is of a standard not lower than that of an examination for the same administered
24 on Guam.

25 **§32116. Certificates -- Seals.** (a) The Board shall issue to each applicant meeting the
26 requirements of this Chapter a certificate of registration which gives the registrant proper authority
27 to practice his profession on Guam. The certificate of registration for a professional engineer shall
28 carry the designation 'PROFESSIONAL ENGINEER' and shall also designate the branch in which
29 he is authorized to practice. The certificate of registration for an architect shall carry the designation
30 'REGISTERED ARCHITECT', and the certificate of registration for a Landscape Architect shall
31 carry the designation 'REGISTERED LANDSCAPE ARCHITECT' and the certificate of
32 registration for a land surveyor shall carry the designation 'PROFESSIONAL LAND

1 SURVEYOR'. It shall give the full name of the registrant with his registration number and shall be
2 signed by the Chairman, the Secretary/Treasurer and the Executive Board Administrator under the
3 seal of the Board.

4 A properly entitled and endorsed identification card shall be issued with the certificate of
5 registration and reissued thereafter as prescribed by §32117 of this Chapter to each registrant upon
6 payment of the renewal fee.

7 Every registered engineer, architect, landscape architect or land surveyor having a place of
8 business or employment within this jurisdiction shall display his certificate of registration in a
9 conspicuous place in such place of business or employment.

10 (b) The issuance of a certificate of registration by the Board shall be prima facie evidence that
11 the person named therein is entitled to all the rights, privileges, and responsibilities of an engineer,
12 architect, landscape architect or land surveyor while the said certificate remains unrevoked or
13 unexpired.

14 (c) The Board shall issue to each applicant meeting the requirements of this Chapter a certificate
15 of "engineer intern" or "land surveyor intern" as applicable. The certificate issued to the "engineer
16 intern" or "land surveyor intern" does not authorize the practice of engineering or land surveying
17 and only indicates that his name has been recorded by the Board as having passed the required
18 examination.

19 (d) Each registrant hereunder shall, upon registration licensure, have a seal of a design
20 authorized by the Board, bearing the registrant's name, registration number, and the designation,
21 "Professional Engineer", "Registered Architect", Registered Landscape Architect or "Professional
22 Land Surveyor". For Professional Engineers, the stamp or seal shall contain the specific discipline
23 for which he is authorized, the expiration date of the registrant, or a space within which the
24 expiration date must be written:

25 (1) The seal shall be an image, imprint or other medium approved by the Board. Except
26 for progress submittals, whenever the seal is applied to a final work product, the registrant's
27 written signature, and date shall be signed adjacent to the seal with the statement "*This work*
28 *was prepared by me or under my responsible control*". If the work product is not intended
29 for construction, a statement to that effect shall be placed on the document adjacent to the
30 seal. A facsimile signature will not be acceptable. Computer-generated signatures and dates
31 are not acceptable.

1 (2) Seals must be a permanent mark on the document being sealed. The standard seal
2 must be used on all original tracings, blueprints, drawings, specifications, reports, and other
3 documents prepared by professional engineers, registered architects, registered landscape
4 architects or professional land surveyors.

5 (3) The seal and dated signature shall be placed on all technical submissions such as
6 specifications, reports, plats, drawings, plans, design information and calculations whenever
7 presented to a client or any public or government agency including government in-house
8 designs.

9 (4) The seal and dated signature shall be placed on all original copies, tracings or other
10 reproducible documents in such a manner that the seal and signature will be reproduced.
11 The application of the registrant's licensee seal and signature shall constitute certification
12 that the work thereon was done by him or under his responsible control. In the case of
13 multiple sealings, the first or title page shall be sealed and signed by all involved. In
14 addition, each sheet shall be sealed and signed by the registrant or registrants responsible for
15 each sheet. In the case of an authorized firm, partnership or corporation, each sheet shall be
16 sealed and signed by the registrants involved. The Responsible Managing Employee (RME)
17 in charge of operations within the jurisdiction shall sign, seal, and date the title or the first
18 sheet.

19 (5) The seal and signature and date shall be used by registrants only when the work
20 being stamped was under the registrant's complete direction and responsible control,
21 provided that if the work was performed at an office outside of the locale in which the
22 registrant permanently resides, then the seal may be used only if the registrant supervised the
23 work on a full-time basis.

24 (6) In the case of temporary permit issued to a registrant licensee of another state or
25 jurisdiction, the registrant shall use his state of registration seal and shall affix his signature
26 and temporary permit number and date of issue to all his work.

27 (7) It shall be unlawful for a registrant to affix or permit his seal and signature, or
28 facsimile thereof, to be affixed to any document as above described after the expiration of a
29 certificate, or for the purpose of aiding or abetting any attempt to evade any provision of this
30 Chapter.

31 (8) Seals of Professional Engineers on Engineering Documents:

32 (i) The seal of a professional engineer shall be placed on each drawing,

1 specification, plan, report or other document which is in its final form and which
2 involves the practice of engineering as defined in this Chapter. A separate seal of a
3 professional engineer of the appropriate branch of engineering, as such branches are
4 designated on the various forms of professional engineer registration certificates, is
5 required for each portion of such document that involves a separate branch of
6 engineering registration certificates, is required for each portion of such document that
7 involves a separate branch of engineering, except as provided in Sub-item (ii) of this
8 item (8). For example, except as provided in Sub-item (ii) of this item (8), so long as
9 registration certificates classify 'civil engineering', 'structural engineering', 'mechanical
10 engineering' and 'electrical engineering' as different branches of engineering, the seal of
11 a professional engineer of the civil branch shall be required for each portion of an
12 engineering document involving civil work; the seal of a professional engineer of the
13 structural branch or civil branch shall be required for each portion of engineering
14 document involving structural work for any structure or building three (3) stories or less
15 in height; wherein the height of the stories shall be defined as not more than twelve (12)
16 feet, the seal of a professional engineer of the structural branch shall be required for each
17 portion of an engineering document involving structural work for any structure or
18 building higher than three (3) stories; the seal of a professional engineer of the
19 mechanical branch shall be required for each portion of an engineering document
20 involving mechanical work; and the seal of a professional engineer of the electrical
21 branch shall be required for each portion of an engineering document involving electrical
22 work.

23 (ii) The requirement of a separate seal for each portion of an engineering
24 document involving a separate branch of engineering is subject to the following
25 exceptions:

26 (aa) in the case of a document involving an individual single family
27 dwelling, two (2) family dwellings, or two (2) family dwellings in a subdivision, the
28 seal of a professional engineer in the civil branch or the seal of an architect shall be
29 sufficient;

30 (bb) in the case of a document involving work incidental to the practice of
31 engineering, the seal of any professional engineer, regardless of his branch of
32 engineering, or the seal of an architect shall be sufficient.

1 (cc) seal of a professional engineer of the mechanical branch is sufficient
2 for documents involving plumbing work, air-conditioning and ventilation, regardless
3 of the height of a building;

4 (dd) in the case of document involving the design of a fire sprinkler
5 system, a seal of a professional engineer in the fire protection branch shall be
6 required.

7 (ee) in the case of a document involving the structural portion of a site
8 adaptation of a pre-engineered structure or building, the seal of a professional
9 engineer of either the civil branch or the structural branch is sufficient; and

10 (ff) in the case of a document involving work for which more than one (1)
11 branch of engineering is qualified, other than those types of work provided for in
12 Sub-items (aa), (bb), (cc), (dd), and (ee) of this item (8), the Board shall promulgate
13 general guidelines for the sealing of such a document. The guidelines shall reflect
14 that there are often broad overlaps between the authorized practices of the various
15 branches of engineering.

16 (9) Seals of Architects.

17 (i) All technical submissions, such as drawings, specifications, plans, reports or
18 other documents, prepared by a registered architect or under his responsible control
19 shall bear his seal, which shall mean that the architect was in responsible control over
20 the content of such technical submissions during their preparation and has applied the
21 required professional standard of care. An architect may sign and seal technical
22 submissions, only if the technical submissions were: (1) prepared by the architect, or;
23 (2) prepared by persons under the architect's responsible control.

24 (ii) Notwithstanding the provisions of Sub-item (i) of this item (9), in the case of
25 a document involving an individual single family dwelling, a seal of either an
26 architect or a professional engineer of the civil engineering branch shall be sufficient.
27 Documents involving two (2) family dwellings, or a subdivision development with
28 single family and two (2) family dwellings, the seal of a professional engineer of the
29 civil engineering branch is sufficient.

30 (iii) The requirement contained in Sub-item (i) of this item (9) does not affect the
31 need for a seal of a professional engineer of the appropriate branch of engineering for
32 each portion of a document that involves a system of a separate branch of

1 engineering.

2 (10) Seals of Professional Land Surveyors:

3 (i) The seal of a Land Surveyor shall be placed on each drawing, plan, property
4 metes and bounds descriptions, computation sheets, reports and other documents in
5 their final form which involve the practice of land surveying, to wit:

6 (aa) any office offering to perform land surveys must have a licensed
7 professional land surveyor in charge of the operations, be available on a full time
8 basis with a 75% physical presence and must have full control of the survey
9 operation;

10 (bb) to further insure that field conditions of survey documents are in full
11 conformance with such survey, the surveyor of record is required to establish a field
12 reference point from which building corners, setbacks and other pertinent points may
13 be derived if and when improvements are contemplated on a property. This reference
14 point must remain in place and be protected from damage for the duration of the
15 construction of a project. Such reference point must be indicated as referenced on
16 the site plan of the project. It will be the surveyor's responsibility to follow setbacks
17 defined in the Zoning Law as may be required for building permit purposes; and

18 (cc) all documents prepared and certified by a professional land surveyor
19 shall be stamped with a statement under the seal stating: "I hereby certify that this
20 map was prepared by me or under my direct supervision, that it is based on a field
21 survey made in (insert date), in accordance with all applicable laws and regulations,
22 and that I am responsible for the accuracy of all data and information shown hereon.
23 I also certify that all the monuments are of the character and occupy the positions
24 indicated in this map".

25 (11) With respect to work incidental to the practice of engineering and work incidental to
26 the practice of architecture, the Board shall promulgate general guidelines which shall
27 include examples of incidental work and which shall set limitations on the permissible extent
28 of such incidental work. Such guidelines shall be consistent with items (8) and (9) of this
29 Subsection (d), including the requirements in those items for separate seals per branch of
30 engineering and for the seal of an architect in the case of a building which has as its principal
31 purpose human occupancy or habitation.

32 (12) An Engineer, Architect, Landscape Architect and Land Surveyor shall provide

1 construction contract administration when applications are made for building or construction
2 permits involving the public safety and health. The term “construction contract
3 administration” means making periodic visits to the site by a registered engineer, architect,
4 landscape architect or land surveyor or authorized representatives as the case may require, to
5 observe the progress and quality of the executed work and to determine, in general, if the
6 work is proceeding in accordance with the contract documents. It is not required that they
7 make exhaustive or continuous on-site inspections to check the quality or quantity of the
8 work nor it is intended that the engineer, architect, landscape architect and land surveyor be
9 responsible for construction means, methods, techniques, sequences or procedures, or for
10 safety precautions and programs in connection with the work.

11 (13) Building Official: The Building Official charged with the responsibility of issuing
12 building permit, must be in possession of a signed/sealed set of plans and specifications.

13 **§32117. Expirations and Renewals.** (a) Certificates of registration and certificates of
14 authorization for corporations, partnerships, limited liability companies, proprietorships and
15 associations shall expire on the last day of the month of September of each year, following their
16 year of issuance and become invalid after that date unless renewed by submission of appropriate
17 forms as prescribed by the Board.

18 (1) Renewals of Certificates of Authorization for corporations, partnerships, limited
19 liability companies, proprietorships and associations shall submit a clearance form from the
20 Department of Revenue and Taxation that they are current on their taxes with the
21 Government of Guam, or have an agreement with Department of Revenue and Taxation for
22 their back taxes. Such clearance shall be submitted with their renewal application form.

23 (2) Expired Certificates of Registration may be renewed at any time within sixty (60)
24 days following the expiration date without submission of “Application for Reinstatement”
25 upon payment of the renewal fee plus penalty fee as prescribed by the Board. Any
26 individual registrant who fails to renew within (60) sixty days after the date of expiration,
27 shall be required to apply for a reinstatement of registration, pay the prescribed (back
28 registration and penalty) fees as prescribed by the Board.

29 (3) Certificates of Authorization may be renewed anytime prior to the expiration date. A
30 Certificate of Authorization is considered null and void if not renewed before the expiration
31 date.

32 (b) It shall be the duty of the Secretary/Treasurer of the Board to notify every person

1 registered under this Chapter, and every corporation, partnership, limited liability company,
2 proprietorship and association holding a certificate of authorization under this Chapter, of the date
3 of the expiration of said certificate of registration or certificate of authorization, and the amount of
4 the fee required for its renewal. Such notice shall be mailed to the registrant or corporation,
5 partnership, proprietorship or association at his/her or its last known address at least one (1) month
6 in advance of the date of the expiration of said certificate. Renewal may be effected at any time
7 prior to or during the month of September by payment of a fee as established by the Board.

8 (c) A certificate of registration shall expire upon the death of a registrant.

9 **§32118. Replacement of Certificates.** (a) Replacement of Certificates. A new certificate
10 of registration, to replace any certificate lost, destroyed, or mutilated, may be issued subject to the
11 rules of the Board and upon payment of the prescribed fee and such certificate shall be stamped or
12 marked “duplicate”.

13 (b) Re-issuance of Certificates. The Board for reasons it deems sufficient may reissue a
14 certificate of registration to any person whose certificate has been revoked providing four (4) or
15 more members of the Board vote in favor of such re-issuance.

16 **§32119. Public Works.** Government employees shall not engage in the practice of
17 engineering, architecture, landscape architecture or land surveying involving either public or private
18 property without the project being under the direct charge and supervision of a registered engineer,
19 architect, landscape architect or land surveyor as provided by this Chapter.

20 **§32120. Disciplinary Action -- Revocation, Suspension, Refusal to Issue, Restore, or**
21 **Renew, Probation, Fine and/or Reprimand.** (a) The publication of the rules of conduct for
22 professional engineers, architects, landscape architects and land surveyors as provided for in §32109
23 or this Chapter shall constitute due notice to all registrants.

24 (b) The Board shall have the power, duty and authority to suspend, refuse to renew or revoke a
25 certificate of registration, or a certificate of authorization or to reprimand, fine or any combination
26 thereof, or levy a civil penalty in an amount determined by the Board or not more than Five
27 Thousand Dollars (\$5,000) for each offense against any engineer, architect, landscape architect,
28 land surveyor or any individual and/or business firm who is found guilty of:

29 (1) the practice of any fraud or deceit in obtaining or attempting to obtain or renew a
30 certificate of registration or certificate of authorization;

31 (2) any gross negligence, incompetency, or misconduct, in the practice of, engineering,

- 1 architecture, landscape architecture or land surveying;
- 2 (3) conviction of or entry of a plea of guilty or nolo contendere to any crime which is a
3 felony, whether related to practice or not; and conviction of or entry of a plea of guilty to
4 any crime, whether a felony, misdemeanor, or otherwise, an essential element of which is
5 dishonesty or which is directly related to the practice of engineering, architecture,
6 landscape architecture or surveying;
- 7 (4) any felony or any crime involving moral turpitude, in which case a certified copy of the
8 record of conviction shall be conclusive evidence thereof;
- 9 (5) failure to comply with any of the provisions of this Chapter or violation of any of the
10 rules or regulations pertaining thereto
- 11 (6) discipline by another jurisdiction, territory, the District of Columbia, foreign country, the
12 United States government, or any governmental agency, if at least one of the grounds for
13 discipline is the same or substantially equivalent to those contained in this section.
- 14 (7) failure to provide information requested by the Board as a result of a formal or informal
15 complaint to the Board which would indicate a violation of this Chapter;
- 16 (8) knowingly making false statements or signing false statements, certifications, or
17 affidavits to include payment;
- 18 (9) aiding or assisting another person in violating any provision of this Chapter or the rules
19 or regulations pertaining thereto
- 20 (10) violating any terms of probation imposed by the Board or using a seal, or practicing
21 engineering, architecture, landscape architecture or land surveying while the registrants
22 license is suspended, revoked, non-renewed;
- 23 (11) signing, affixing or permitting his seals to be affixed to any specifications, reports,
24 drawings, plans, plats, design information, construction documents or calculations, surveys,
25 or revisions thereof which have not been prepared by the licensee or under the licensee's
26 responsible control;
- 27 (12) engaging in dishonorable, unethical, or unprofessional conduct of a character likely to
28 deceive, defraud, or harm the public;
- 29 (13) providing false testimony or information to the Board;
- 30 (14) habitual intoxication or addiction to the use of drugs or alcohol so as to endanger
31 health, safety and interest of the public by impairing skill and care in professional services;

1 or

2 (15) providing engineering, architectural, landscape architectural or surveying services
3 outside of the licensee's areas of competence. Licensees must demonstrate by education or
4 experience that they are competent to practice in the subject field in question.

5 (c) A record of conviction of any of the offenses provided in paragraph (b)(1) through (b)(15)
6 above shall be conclusive evidence thereof.

7 (d) In addition to any other penalty provided in this Section, the Board shall have the power to:
8 revoke, suspend, place on probation, fine and/or reprimand, or refuse to issue, restore or renew, the
9 certificate of authorization of any firm where one or more of its officers, directors, partners,
10 members, or managers have been found guilty of any conduct which would constitute a violation
11 under the provisions of this Section.

12 (1) revoke a certificate of authorization, or

13 (2) to suspend a certificate of authorization for a period of time not exceeding two (2) years
14 of any corporation, partnership, limited liability company or association where one or
15 more of his officers or principals have been found guilty under this Section, or

16 (3) assess fines against the firm.

17 (e) In addition to or in lieu of any other penalty provided in this Section, any licensee who
18 violates a provision of this Chapter, or any rule or regulation pertaining thereto, a civil
19 penalty in an amount determined by the Board or not more than \$5,000 for each offense.

20 (1) Each day of continued violation may constitute a separate offense.

21 (2) In determining the amount of civil penalty to be assessed pursuant to this Section, the
22 Board may consider such factors as the following:

23 (i) whether the amount imposed will be substantial economic deterrent to the
24 violation;

25 (ii) the circumstances leading to the violation;

26 (iii) the severity of the violation and the risk of harm to the public.

27 **§32121. Disciplinary Action Procedures.** (a) Any person may prefer charges of fraud,
28 deceit, gross negligence, incompetence, misconduct, or violation of the rules of professional
29 conduct, against any individual registrant, or against any corporation, limited liability company,
30 partnership or association holding a certificate of authorization. Such charges shall be in writing
31 and shall be sworn to by the person or persons making them and shall be filed with the

1 Secretary/Treasurer of the Board. The Board may summarily take action without compliance with
2 the Administrative Adjudication Law, to suspend [revoke], or deny a certificate of registration or
3 authorization from any individual registrant, corporation, partnership or association when it has
4 received or obtained either a record of conviction or notice via news media and/or radio that said
5 registrant, corporation, limited liability company, partnership or association has been found guilty of
6 a crime.

7 (b) All charges, unless dismissed by the Board as unfounded or trivial, shall be heard by
8 the Board within three (3) months after the date on which the charges have been determined to have
9 merit by the Executive Board Administrator. At the Board's discretion, an extension of time up to
10 an additional three (3) months for the hearing may be granted upon the request of either party. The
11 hearing shall be conducted in accordance with the requirements of the Administrative Adjudication
12 Law.

13 (c) The time and place for said hearing shall be fixed by the Board, and a copy of the
14 charges, together with a notice of the time and place of hearing, shall be served on or mailed to the
15 individual registrant, or corporation, partnership, limited liability company or association holding a
16 certificate of authorization, or to his designated counsel in accordance with the requirements of the
17 Administrative Adjudication Law. At any hearing, the accused shall have the right to appear in
18 person or by counsel, or both, to cross-examine witnesses in his or its defense, and to produce
19 evidence and witnesses in his own defense. If the accused person fails or refuses to appear, the
20 Board may proceed to hear and determine the validity of the charges.

21 (d) If, after such hearing, a majority of the Board votes in favor of sustaining the
22 charges, the Board shall reprimand, suspend, refuse to renew, or revoke the certificate of registration
23 or certificate of authorization.

24 (e) Any individual registrant having a certificate of registration, or corporation,
25 partnership, limited liability company or association holding a certificate of authorization, aggrieved
26 by any action of the Board in denying, suspending, refusing to renew or revoking his certificate of
27 registration, or its certificate of authorization, may appeal therefrom to the proper court under
28 normal civil procedures.

29 (f) The Board may, upon petition of a formerly licensed individual registrant or
30 corporation, partnership or association, reissue a certificate of registration or authorization, provided
31 that not less than four (4) members of the seven (7) member Board, vote in favor of such issuance.

32 (g) No certificate of registration or authorization shall be suspended, revoked or denied

1 renewal by the Board, except after a hearing in accordance with the provisions of the Administrative
2 Adjudication Law.

3 **§32122. Violations and Penalties.** (a) Civil Penalties for Non-Licensees:

4 (1) In addition to any other provision of law, the Board may enter an order assessing a
5 civil penalty against any person, firm, partnership, limited liability company or corporation
6 found guilty by the Board of:

7 (i) Engaging in the practice or offer to practice engineering, architecture,
8 landscape architecture or land surveying in this jurisdiction without being licensed in
9 accordance with the provisions of this Chapter;

10 (ii) Using or employing the words “engineer”, “engineering”, “architect”,
11 “architecture”, “landscape architect”, “landscape architecture”, “surveyor”, “surveying”,
12 or any modification or derivative thereof in its name or form of business activity, except
13 as authorized in this Chapter;

14 (iii) Presenting or attempting to use the certificate of licensure or the seal of
15 another licensed engineer, architect, landscape architect or land surveyor;

16 (iv) Giving false or forged evidence of any kind to the Board or any member
17 thereof in obtaining or attempting to obtain a certificate of licensure;

18 (v) Falsely impersonating any other licensed engineer, architect, landscape
19 architect or land surveyor of like or different name; or

20 (vi) Using or attempting to use an expired, suspended or revoked or non-existent
21 certificate of licensure or authorization;

22 (2) A civil penalty levied under this Section may not be less than \$5,000 for each
23 offense.

24 (3) Each day of continued violation may constitute a separate offense.

25 (4) In determining the amount of civil penalty to be assessed pursuant to this Section, the
26 Board may consider such factors as the following:

27 (i) Whether the amount imposed will be a substantial economic deterrent to the
28 violation;

29 (ii) The circumstances leading to the violation;

30 (iii) The severity of the violation and risk of harm to the public;

31 (iv) The economic benefits gained by the violator as a result of non-compliance; and

32 (v) The interest of the public.

1 (5) Before issuing an order under this Section, the Board shall provide the person written
2 notice and opportunity to request a hearing on the record, which need not be in accordance
3 with the provisions of the Administrative Adjudication Law.

4 (6) A person aggrieved by the levy of a civil penalty under this Section may file an
5 appeal with the Superior Court for judicial review of the penalty aforementioned.

6 (7) If a person fails to pay a civil penalty within thirty (30) days after the entry of an
7 order under Subsection (a)(1) of this Section, or if the order is stayed pending an appeal,
8 within ten (10) days after the court issues a final judgment in favor of the Board of an order
9 appealed in accordance with Subsection (a)(6) of this Section, the Board shall notify the
10 Attorney General. The Attorney General may commence a civil action to recover the
11 amount of the penalty, plus attorney's fees and costs.

12 (8) An action to enforce an order under this Section may be combined with an action of
13 an injunction.

14 (b) Criminal Offenses

15 (i) Any person who shall practice, or offer to practice, engineering, architecture,
16 landscape architecture or land surveying on Guam without being registered in accordance
17 with the provisions of this Chapter, or any person, firm, partnership, organization,
18 association, corporation or other entity using or employing the words, 'Engineer' or
19 'Engineering', 'Architect' or 'Architecture', 'Landscape Architect', 'Land Surveyor' or
20 'Land Surveying' or any modification or derivative thereof in its name or form of business
21 or activity except as authorized in this Chapter, or any person presenting or attempting to
22 use the certificate of registration or the seal of another, or any person who shall give any
23 false or forged evidence of any kind to the Board or to any member thereof if obtaining or
24 attempting to obtain a certificate of registration, or any person who shall falsely impersonate
25 any other registrant of like or different name, or any person who shall attempt to use an
26 expired or revoked or non-existent certificate of registration, or who shall practice or offer to
27 practice when not qualified, or any person who falsely claims that he is registered under this
28 Chapter, or any person who shall violate any of the provisions of this Chapter, shall be guilty
29 of a petty misdemeanor for the first offense and a third degree felony for the second or any
30 subsequent offenses.

31 (ii) It shall be the duty of all duly constituted officers of Guam to enforce the provisions
32 of this Chapter and to prosecute any person violating same.

1 (iii) The Attorney General of Guam shall act as legal advisor to the Board and render
2 such legal assistance as may be necessary in carrying out the provisions of this Chapter. The
3 Board may employ independent counsel and necessary assistance to aid in the enforcement
4 of this Chapter and the compensation and expenses therefore shall be paid from funds of the
5 Board.

6 (iv) Any person who is not registered as a professional engineer, architect, landscape
7 architect or land surveyor under this Chapter and who, by written or verbal claim, sign,
8 advertisement, letterhead, card or in any other way represents himself to be a professional
9 engineer, architect, landscape architect or land surveyor or through the use of some other title
10 implies that he is a professional engineer, architect, landscape architect or land surveyor or that
11 he is registered under this Chapter or holds himself out as able to perform any engineering
12 service or work or any other service designated by the practitioner which is recognized as
13 engineering, architecture, landscape architecture or land surveying shall be guilty of a petty
14 misdemeanor.

15 **§32123. Certificate of Authorization (COA).** (a) The practice of or offer to practice
16 engineering, architecture, landscape architecture or land surveying as defined in §32103 of this
17 Chapter by individual engineers, architects, landscape architects or land surveyors registered under
18 this Chapter, or by individuals lawfully practicing under §32124 of this Chapter through a
19 corporation (including professional corporations), partnership (including registered limited liability
20 partnership), or limited liability company, is permitted, subject to the provisions of this Chapter.

21 A corporation, partnership, proprietorship or limited liability company holding itself out or
22 performing any of the services involved in the practice of engineering, architecture, landscape
23 architecture or land surveying must obtain a certificate of authorization from the Board. The Board
24 may issue a Certificate of Authorization to such corporation, partnership, proprietorship or limited
25 liability company; provided that:

26 (i) one (1) or more of the officers of a corporation; one (1) or more of the general partners of a
27 partnership (including limited liability partnership); the sole proprietor of a proprietorship; or
28 one or more of the managers of a limited liability company are registered under this Chapter
29 or the engineering, architecture, landscape architecture or land surveying registration law of
30 another jurisdiction within the United States, District of Columbia or its Territories; and

31 (ii) any agreement to perform such services shall be executed on behalf of the corporation,
32 partnership, limited liability company by the officer or officers, general partner or partners,

1 sole proprietor, or by the manager or managers who are registered on Guam and who
2 exercises responsible control over the particular services contracted for by the corporation,
3 partnership, proprietorship or limited liability company.

4 The requirements of this Chapter shall not prevent the employees of such corporations,
5 partnerships, proprietorships or limited liability companies from performing engineering,
6 architecture, landscape architecture or land surveying services; provided that all technical
7 submissions involving the practice of engineering, architecture, landscape architecture or land
8 surveying as defined in this Chapter when issued, or filed for public record, shall be dated, and bear
9 the seal and signature of the professional engineer, architect, landscape architect, or professional
10 land surveyor under whose responsible control it was prepared.

11 (b) A corporation, partnership, proprietorship or limited liability company desiring a certificate
12 of authorization shall furnish the Board such information about its organization and activities as the
13 Board may require by regulation and to designate the individual or individuals duly registered to
14 practice engineering (by discipline), architecture, landscape architecture, or land surveying on Guam
15 who shall be in responsible control of the practice as the Responsible Managing Employee (RME).

16 (c) A multi-discipline firm who has more than one (1) designated RME shall be required to have
17 a minimum of one (1) RME and who must have full control over the particular services contracted
18 for by the firm. In the event there shall be a change in any of these persons during the year, such
19 change shall be reported in the form as issued by the Board within thirty (30) days after the effective
20 date of said change.

21 If all of the requirements of this Section are met, the Board may issue a certificate of
22 authorization to such corporation, partnership, proprietorship or limited liability company
23 authorizing such organizations to contract for and to collect fees for furnishing engineering,
24 architecture, landscape architecture or land surveying services. All off-island firms shall be required
25 to maintain a local office under the control of at least one (1) Responsible Managing Employee who
26 shall be in full control of the operations of the firm. The COA shall be displayed in a conspicuous
27 place in such business.

28 No such corporation, partnership, proprietorship or limited liability company shall be relieved of
29 responsibility for the conduct or acts of its agents, employees or officers by reason of its compliance
30 with the provisions of this Section, nor shall any individual practicing engineering, architecture,
31 landscape architecture or land surveying services performed by reason of his employment or
32 relationship with such corporation, partnership, proprietorship or association.

1 A certificate of incorporation shall not be issued to an applicant for a registration as a foreign
2 firm to a firm which includes among the objectives for which it is established any of the words
3 engineer', 'engineering', 'architect', 'architecture', landscape architect, landscape architecture,
4 'surveyor', 'land surveying', or any modification or derivation thereof, unless the Board has issued
5 for the said applicant a certificate of authorization or letter indicating the eligibility of such applicant
6 to receive such a certificate. The firm shall supply such certificate or letter from the Board with the
7 applicant's application for incorporation, licensure or authorization.

8 (d) The responsible department within the Government of Guam shall decline to register any
9 trade name or service mark which includes such words as set forth in Subsection (c) of this Section,
10 or modification or derivatives thereof, in its firm name or logo type, except those firms holding
11 authorization certificate under the provisions of this Section.

12 (e) An engineer, architect, landscape architect or land surveyor who renders occasional part-
13 time or consulting engineering, architectural, landscape architect or land surveying services to or for
14 a firm may not, for the purposes of this Section, be designated as being responsible for the
15 professional activities of the firm.

16 (f) This section shall not require a certificate of authorization for a firm performing engineering,
17 architecture, landscape architecture or land surveying for the firm itself or a parent or subsidiary of
18 said firm.

19 (g) The certificate of authorization shall be renewed as herein before provided in Section
20 §32117(a).

21 **§32124. Exclusive Jurisdiction of the Board -- Restriction on requirement for additional**
22 **licenses or fees.** No local jurisdiction shall have the authority to require additional licensure or to
23 require payment of any fees in order for any professional engineer, architect, landscape architect or
24 land surveyor to engage in the practice of the profession for which the Board has issued a license.

1 **§32125. Contract Law Language.** (a) A Professional Engineer, Architect, Landscape
2 Architect, or Land Surveyor shall use a written contract when contracting to provide professional
3 engineering, architecture, landscape architecture, land surveying or construction management
4 services to a client pursuant to this Chapter. The written contract shall be executed by the
5 professional engineer, architect, landscape architect, or land surveyor and the client, or their
6 representative, prior to the professional engineer, architect, landscape architect or land surveyor
7 commencing work, unless the client knowingly states in writing that work may commence before
8 the contract is executed. The written contract shall include, but not limited to, all of the following:

9 (1) A description of the services to be provided to the client by the professional engineer,
10 architect, landscape architect or land surveyor.

11 (2) A description of any basis of compensation applicable to the contract, and the method of
12 payment agreed upon by the parties.

13 (3) The name, address, and license or certificate number of the professional engineer,
14 architect, landscape architect or land surveyor, and the name and address of the client.

15 (4) A description of the procedure that the professional engineer, architect, landscape
16 architect or land surveyor and the client will use to accommodate additional services.

17 (b) This section shall not apply to any of the following:

18 (1) Professional engineering, architectural, landscape architectural or land surveying services
19 rendered by a professional engineer, architect, landscape architect or land surveyor for which
20 the client will not pay compensation.

21 (2) A professional engineer, architect, landscape architect or land surveyor who has a current
22 or prior contractual relationship with the client to provide engineering, architectural or land
23 surveying services, and that client has paid the professional engineer, architect, landscape
24 architect or land surveyor all of the fees that are due under the contract.

25 (3) If the client knowingly states in writing after full disclosure of this section that a contract
26 which complies with the requirements of this section is not required.

27 (c) “Written Contract” as used in this Section includes a contract that is in electronic form.

28 **§32126. Exemption Clause.** This Chapter shall not be construed to prevent the practice by:

29 (a) Temporary Permits.

30 (1) Professional Engineer/Architect — The practice or offer to practice engineering,
31 architecture or landscape architecture by a person not a resident of or having no established
32 place of business on Guam, provided such person is legally qualified by registration to

1 practice engineering, architecture or landscape architecture as defined in §32103 of this Title,
2 in his own state or territory and, in the case of a person seeking to practice architecture, who
3 has a current certificate of registration issued by the National Council of Architectural
4 Registration Boards, and in the case of a person seeking to practice landscape architecture,
5 who has a correct certificate of registration issued by the Council of Landscape Architectural
6 Registration Boards. Such person shall make application to the Board in writing and after
7 payment of a fee as prescribed in the by-laws may be granted written permit for a definite
8 period of time not to exceed one (1) year to do a specific job, provided, however, that no right
9 to practice engineering, architecture or landscape architecture shall accrue to such applicant
10 with respect to any other work not set forth in said permit. However, engineers hired as a
11 chief engineer for a government entity be granted a one (1) year temporary license from the
12 date of hire. Prior to the expiration of his temporary license, the individual must submit an
13 application for a regular or permanent registration to practice engineering, if otherwise,
14 qualified in order to continue to serve as Chief Engineer.

15 For Civil Engineers only: The applicant must have passed the CSCS examination.

16 (2) Land Surveyor. The practice of land surveying under a temporary permit by a person
17 registered as a land surveyor in another state is not considered to be in the best interest of the
18 public and therefore shall not be granted.

19 (b) Employees and Subordinates. the work of an employee or a subordinate of a person holding
20 a certificate of registration under this Chapter, or an employee of a person practicing lawfully
21 under Subsection (a) of this Section; provided such work does not include final engineering,
22 architecture, landscape architecture or land surveying designs or decisions and is done under the
23 direct supervision of and verified by a person holding certificate of registration under this
24 Chapter or a person practicing lawfully under Subsection (a) of this Section.

25 (c) Practice of Construction Management. Any service or work, the adequate performance of
26 which involves professional construction inspection or observation, certifications, shop drawing
27 review and approval, engineering calculations, specifications, revising construction details,
28 construction interpretation, etc. as defined in §32103 of this Chapter.

29 (d) The Chief Engineer for any government entity shall be responsible for management of engineers of other
30 disciplines.

31 **§32127. Duties of Recordors.** It shall be unlawful for the recorder of deeds or the civil
32 registrar of titles to file or record any map, plat, survey or other documents within the definition of

1 land surveying which do not have impressed thereon and affixed thereto the personal signature and
2 seal of the professional land surveyor by whom or under whose direct supervision the map, plat,
3 survey or other documents were prepared.

4 **§32128. Invalid Sections.** If any of the provisions of this Chapter, or if any rule, regulation or
5 order thereunder, or if the application of such provision to any person or circumstance shall be held
6 invalid, the remainder of this Chapter and the application of such provision of this Chapter or such
7 rule, regulation or order to persons or circumstances, other than those as to which it is held invalid,
8 shall not be affected thereby.

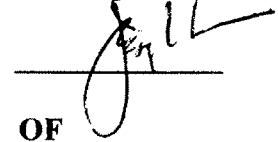
9 **§32129. Effective Date.** This law shall take effect thirty (30) days from the date of passage.”

**I MINA 'TRENTA NA LIHESLATURAN GUÁHAN
2009 (First) REGULAR SESSION**

Bill No. 25 (LS)

Introduced by:

J.V. Espaldan



2009 JUN - 5 AM 11: 00

**AN ACT TO REPEAL AND RE-ENACT CHAPTER 32 OF
TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO THE
PROFESSIONAL ENGINEERS, ARCHITECTS AND LAND
SURVEYORS (PEALS) LAW.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Chapter 32 of Division 3, Title 22, Guam Code Annotated is repealed and re-enacted to read:

**“CHAPTER 32
THE PROFESSIONAL ENGINEERS, ARCHITECTS
AND LAND SURVEYORS LAW (PEALS)**

§32101. NAME. This [title] Chapter may be cited as the *Professional Engineers, Architects and Land Surveyors Law*.

§32102. GENERAL PROVISIONS. In order to safeguard life, health, and property, and to promote the public welfare, the practice of engineering, architecture and land surveying in Guam is hereby declared to be subject to regulation in the public interest. It shall be unlawful for any person to practice, or to offer to practice, engineering, architecture or land surveying in Guam as defined in the provisions of this [Title] Chapter, or to use in connection with his name or otherwise assume, or advertise any title or description tending to convey the impression that he is an engineer, an architect or land surveyor, unless such person has been duly registered or exempted under the provisions of this [Title] Chapter. The practice of engineering, architecture and land surveying shall be deemed a privilege granted by the territory through the Guam Board of Registration for Professional Engineers, Architects and Land Surveyors, based on the qualifications of the individual as evidenced by his certificate of registration which shall not be transferable.

§32103. DEFINITIONS.

(a) Engineer.

- (1) Engineer — The term *Engineer*, within the intent of this [Act] Chapter shall mean a person who, by reason of his special knowledge and use of the mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, is qualified to practice engineering.
- (2) Professional Engineer — The term *Professional Engineer*, as used in this [Act] Chapter, shall mean a person who [~~has been~~] is duly registered and licensed by the Guam Board of Registration for Professional Engineers, Architects and Land Surveyors as a Professional Engineer.
- (3) Professional Engineer, Emeritus — The term *Professional Engineer, Emeritus* as used in this Chapter, shall mean a person who is a *Professional Engineer, Retired*, and who is sixty five (65) years of age; and has been a resident of Guam for at least five (5) years; and has had no disciplinary action against him; and who applies to and

1 is approved by the Board to be granted the use of the honorific title, *Professional*
2 *Engineer, Emeritus.*

3 (4) Professional Engineer, Retired ---- The term *Professional Engineer, Retired* as used
4 in this Chapter, shall mean a person who has been duly licensed as a professional
5 engineer by the Board and who chooses to relinquish or not to renew a license and
6 who applies to and is approved by the Board to be granted the use of the honorific
7 title, *Professional Engineer, Retired.*

8 ~~{(3)}~~(5) Engineer Intern — The term *Engineer Intern*, as used in this [Aet] Chapter, shall
9 mean a person who complies with the requirements for education, experience and character,
10 and has passed an examination in the fundamental engineering subjects, as provided in
11 §32113 and §32115 of this [Aet] Chapter.

12 ~~{(4)}~~ (6) Practice of Engineering — The term *Practice of Engineering*, as used in this
13 [Title] Chapter, means any service or creative work, the adequate performance of which
14 requires engineering education, training, and experience in the application of special
15 knowledge of the mathematical, physical, and engineering sciences to such services or
16 creative work as consultation, investigation, expert technical testimony, evaluation,
17 planning, design, [construction management of engineering works and systems, planning the
18 use of land and waters, engineering teaching of advanced engineering subjects or courses
19 related thereto, engineering surveys, and the inspection of construction for the purpose of
20 assuring compliance with drawings and specifications; any of which embraces such services
21 or work either public or private, in connection with any utilities, structures, buildings,
22 machines equipment, processes, work systems, or project and including such architectural
23 work as may be incidental to the practice of engineering, industrial or consumer products or
24 equipment of a control systems, communications, mechanical, electrical, hydraulic,
25 pneumatic or thermal nature, insofar as they involve safeguarding life, health or property,
26 and including such other professional services as may be necessary to the planning, progress
27 and completion of any engineering services.] and design coordination of engineering works
28 and systems, planning the use of land, air and water, teaching of advanced engineering
29 subjects, performing engineering studies and the review and/or management of construction
30 for the purpose of monitoring and/or ensuring compliance with drawings and specifications;
31 any of which embraces such services of work, either public or private, in connection with
32 any utilities, structures, buildings, machines, equipment, processes, work systems, projects,
33 communication systems, transportation systems, and industrial or consumer products, or
34 equipment of a control systems, communications, mechanical, electrical, hydraulic,
35 pneumatic, chemical, environmental or thermal nature, insofar as they involve safeguarding
36 life, health, or property, and including such other professional services as may be necessary
37 to the planning, progress, and completion of any engineering services.

38 Design coordination includes the review and coordination of those technical submissions
39 prepared by others, including as appropriate and without limitation, consulting engineers,
40 architects, landscape architects, surveyors, and other professionals working under the
41 direction of the engineer.

42 A person shall be construed to practice or offer to practice engineering, within the
43 meaning and intent of this Chapter, who practices any branch of the profession of
44 engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other
45 way represents themselves to be a professional engineer, or through the use of some other
46 title implies that they are a professional engineer or that they are licensed under this Chapter;
47 or who hold themselves out as able to perform, or who does perform any engineering service

1 or work or any other service designated by the practitioner which is recognized as
2 engineering.

3 ~~(5)~~(7) Consulting Engineer — The term *Consulting Engineer*, as used in this [Title]
4 Chapter, means a professional engineer whose principal occupation is the independent
5 practice of engineering; whose livelihood is obtained by offering engineering services to the
6 public; who services clients as an independent fiduciary; who is devoid of public,
7 commercial and product affiliation that might tend to infer a conflict of interest; and who is
8 cognizant of his public and legal responsibilities, and is capable of discharging them.

9 (b) Architect.

10 (1) Architect — The term *Architect*, as used in this [Act] Chapter, shall mean a person,
11 who by reason of his knowledge of the mathematical, and physical sciences, and the
12 principles of architecture and architectural engineering acquired by professional education
13 and practical experience is qualified to engage in the practice of architecture and who has
14 been duly registered and licensed by the Guam Board of Registration for Professional
15 Engineers, Architects and Land Surveyors as an Architect.

16 (2) Practice of Architecture — The term *Practice of Architecture*, as used in this [Title]
17 Chapter, means any service or creative work, the adequate performance of which requires
18 architectural education, training and experience and the application of the mathematical and
19 physical sciences and the principles of architecture and architectural engineering to such
20 professional services or creative work as consultation, investigation, evaluation, planning,
21 design, construction management, ~~or~~ supervision or observation of construction for the
22 purpose of assuring compliance with specifications and design in connection with any
23 building which has as its principal purpose human occupancy or habitation, any other
24 building, or any monument, structure, waterfront development, site development or project
25 including topographic work, grading and engineering incidental to the performance of any
26 architectural service or other services recognized by educational authorities as architecture.

27 (3) Registered Architect — The term *Registered Architect*, as used in this Chapter, shall
28 mean ~~[a] the person who has been duly registered and licensed by an Architect holding a~~
29 current registration with the Guam Board of Registration for Professional Engineers,
30 Architects and Land Surveyors as a Registered Architect.

31 (4) Architect Emeritus — The term *Architect Emeritus*, as used in this Chapter, shall
32 mean a person who is an “Architect, Retired”; and who is sixty five (65) years of age; and
33 has been registered on Guam for at least five (5) years; and has been a resident of Guam for
34 at least five (5) years; and has had no disciplinary action against him; and who applies to and
35 is approved by the Board to be granted the use of the honorific title, *Architect, Emeritus*.

36 (5) Architect, Retired — The term *Architect, Retired*, as used in this Chapter, shall mean
37 a person who has been duly licensed as an Architect by the Board and who chooses to
38 relinquish or not to renew a license and who applies to and is approved by the Board to be
39 granted the use of the honorific title, *Architect, Retired*.

40 (c) Landscape Architect

41 (1) Landscape Architect — The term *Landscape Architect*, shall mean a person who has
42 been duly registered/licensed by the Board to engage in the practice of landscape
43 architecture in Guam.

44 (2) Practice of Landscape Architecture — The term *Practice of Landscape*
45 *Architecture* means:

46 (a) Those who holds themselves out as able to perform professional services such as
47 consultation, investigation, reconnaissance, research, design, preparation of drawings and

1 specifications, and responsible supervision where the dominant purpose of such services is
2 the preservation and enhancement of land uses and natural land features; the location and
3 construction of aesthetically pleasing and functional approaches for structures, roadways,
4 and walkways; and design for equestrian trails, plantings, landscape irrigation, landscape
5 lighting, and landscape grading. This practice shall include the location, arrangements, and
6 design of such tangible objects and features as are incidental and necessary o the purposes
7 outlined herein. Nothing herein shall preclude a duly registered landscape architect from
8 planning the development of land areas and elements used thereon or from performing any
9 of the services described in this section in connection with the settings, approaches, or
10 environment for buildings, structures, or facilities. A registered landscape architect shall not
11 practice or offer to practice architecture or any branch of engineering.

12 (b) A person is considered to be practicing or offering to practice landscape architecture,
13 within the meaning and intent of the law, who practices the profession of landscape
14 architecture or who, by verbal claim, sign, advertisement, letterhead, card or in any other
15 way represents themselves to be a landscape architect or through the use of some other title,
16 implies that they are licensed or holds themselves out as able to perform or who does
17 perform any landscape architecture service or work or any other service designated by the
18 practitioner which is recognized as landscape architecture.

19 **(e)(d)** Land Surveyor.

20 (1) Land Surveyor — The term ‘Land Surveyor’, as used in this [Aet] Chapter, shall
21 mean a person who is knowledgeable in the technique of measuring land, educated in the
22 basic principles of mathematics, the related physical and applied sciences, and relevant
23 requirements of law for adequate evidence and all requisite to the surveying of a real
24 property and engaged in the practice of land surveying as herein defined. ~~and has been duly~~
25 ~~registered and licensed by the Guam Board of Registration for Professional Engineers,~~
26 ~~Architects and Land Surveyors as a Land Surveyor.~~

27 (2) Professional Land Surveyor — The term *Professional Land Surveyor*, as used in this
28 [Title] Chapter, shall mean a person who ~~has been~~ is duly registered and licensed by the
29 Guam Board of Registration for Professional Engineers, Architects and Land Surveyors as a
30 Professional Land Surveyor, and who is a professional specialist in the technique of
31 measuring land, educated in the basic principles of mathematics, the related physical and
32 applied sciences, and the relevant requirements of law for adequate evidence and all requisite
33 to surveying of real property, and engaged in the practice of surveying as herein defined.

34 (3) Professional Land Surveyor, Emeritus — the term *Professional Land Surveyor,*
35 *Emeritus* as used in this Chapter, shall mean a person who is a professional land surveyor
36 retired; and who is sixty five (65) years of age; and has been registered on Guam for at least
37 five (5) years; and has been a resident of Guam for at least five (5) years; and has had no
38 disciplinary action against him; and who applies to and is approved by the Board to be
39 granted the use of the honorific title, *Professional Land Surveyor, Emeritus.*

40 (4) Professional Land Surveyor, Retired — the term *Professional Land Surveyor,*
41 *Retired* as used in this Chapter shall be a person who has been duly licensed as a
42 professional land surveyor by this Board and who chooses to relinquish or not to renew a
43 license and who applies to and is approved by the Board to be granted the use of the
44 honorific title, *Professional Land Surveyor, Retired.*

45 ~~{(3)}~~(5) Land Surveyor Intern — ~~{t}~~The term *Land Surveyor Intern*, as used in this
46 [Title] Chapter, means a person who has qualified for, taken and passed the land surveyor
47 intern examinations as provided in this [Title] Chapter.

1 [(4)] (6) Practice of Land Surveying — The term *Practice of Land Surveying*, as used in this
2 [Title] Chapter, ~~[means any service or work, the adequate performance of which involves the~~
3 ~~application of special knowledge of the principles of mathematics, the related physical and~~
4 ~~applied sciences, and the relevant requirements of law for adequate evidence to the act of~~
5 ~~measuring and locating lines, angles, elevations, natural and man-made features in the air, on the~~
6 ~~surface of the earth, within the underground workings, and on the beds of bodies of water for~~
7 ~~the purposes of determining areas and volumes, for the monumenting of property boundaries,~~
8 ~~and for the platting and layout of lands and subdivisions thereof, including the topography,~~
9 ~~alignment and grades of streets, and for the preparation and perpetuation of maps, record plats,~~
10 ~~field note records and property descriptions that represent these surveys, including construction~~
11 ~~management related services such as new construction layouts and post construction survey~~
12 ~~verification of as-built conditions of horizontal and vertical works.] shall mean providing, or~~
13 ~~offering to provide, professional services using such sciences as mathematics, geodesy, and~~
14 ~~photogrammetry, and involving both (1) the making of geometric measurements and gathering~~
15 ~~related information pertaining to the physical and or legal features of the earth, improvements on~~
16 ~~the earth, the space above, on, or below the earth, and (2) providing, utilizing or developing the~~
17 ~~same into survey products, such as graphics, data, maps, plans, reports, descriptions, or projects.~~
18 Professional services include acts of consultation, investigation, testimony evaluation, expert
19 technical testimony, planning, mapping, assembling and interpreting gathered measurements and
20 information related to any one or more of the following:

- 21 a. Determining by measurement the configuration or contour of the earth's surface or
22 the position of fixed objects thereon.
- 23 b. Determining by performing geodetic surveys the size and shape of the earth or the
24 position of any point on the earth.
- 25 c. Locating, relocating, establishing, or retracing property lines or boundaries of any
26 tract of land, road, right-of-way, or easement.
- 27 d. Marking any survey for the division, subdivision, or consolidation of any tract(s) of
28 land.
- 29 e. Locating or laying out alignments, positions, or elevations for the construction of
30 fixed works.
- 31 f. Determining, by the use of principles of surveying, the position for any survey
32 monument (boundary or non-boundary) or reference point; establishing or replacing
33 any such monument or reference point.
- 34 g. Creating, preparing, or modifying electronic or computerized data, relative to the
35 performance of the activities in the above described items a through f.
- 36 h. Certifying, within the metadata of a Geographical Information System data base, the
37 positional accuracy of the features, cadastral and/or boundary lines, fixed objects,
38 utilities, images and graphically displayed data sets that are used for base mapping.

39 A person shall be construed to practice or offer to practice surveying, within the meaning and
40 intent of this Chapter, who by verbal claim, sign, advertisement, letterhead, card, or in any other
41 way represents themselves to be a land surveyor or through the use of some other title implies
42 that they are a professional land surveyor or that they are licensed under this Chapter; or who
43 hold themselves out as able to perform, or who does perform any surveying service or work or
44 any other service designated by the practitioner which is recognized as surveying except to
45 references to engineering surveys.

46 (d) Approved School — The term *Approved School* as used in this [Title] Chapter, shall mean

1 institutions offering curricula leading to first professional degrees in engineering, architecture or
2 land surveying and are accredited by the Accreditation Board for Engineering and Technology,
3 Inc., ~~for the NCEES Ad Hoc Subcommittee on Foreign Education of the International Relations~~
4 ~~Committee,~~ or the NCEES Center for Professional Engineering Education Services or the
5 National Architectural Accreditation Board.

6 (e) ARE — The term *ARE* as used in this ~~[Title]~~ Chapter shall mean the current Architect
7 Registration Examination ~~[provided]~~ prepared by the National Council of Architectural
8 Registration Boards.

9 (f) Association — The term *Association* as used in this ~~[Title]~~ Chapter, shall mean the act of a
10 number of persons in uniting together for some special purpose or business. It is a term of
11 vague meaning used to indicate a collection or organization of persons who have joined
12 together for a certain or common objective.

13 (g) Board — The term *Board*, as used in this ~~[Act]~~ Chapter shall mean the Guam Board of
14 Registration for Professional Engineers, Architects, and Land Surveyors, hereinafter
15 provided by this ~~[Act]~~ Chapter.

16 (h) Certificate of Authorization — The term *Certificate of Authorization* as used in this Chapter,
17 shall mean those presents issued by the Guam Board of Registration for Professional
18 Engineers, Architects and Land Surveyors to a corporation, ~~[company,]~~ partnership,
19 proprietorship, limited liability company, or other legal entity allowed by Guam Law ~~[etc.;~~
20 in the name of that organization which serves to identify it as having the legal right to offer
21 engineering, architectural, land surveying or construction management services.

22 (i) Certificate of Registration — The term *Certificate of Registration* as used in this Chapter
23 shall mean those presents issued by the Guam Board of Registration for Professional
24 Engineers, Architects and Land Surveyors to an individual in his own name, which serves to
25 identify those legally entitled to practice engineering, architecture or land surveying.

26 (j) CLARB — The term *CLARB* as used in this Chapter shall mean the Council of Landscape
27 Architectural Registration Boards.

28 ~~{(j)}~~(k) Construction Management — ~~{t}~~The term *Construction Management*, as used in this
29 ~~[Act]~~ Chapter, to be performed by licensed engineers, architects, or land surveyors, shall
30 include but not be limited to professional services during construction such as permitting
31 process and coordination, bid evaluation and contract award, processing of payment requests
32 and change orders, claims and dispute resolution, review and approval of submittals and
33 progress schedules, onsite quality assurance inspections and testing, survey checks,
34 compliance to contract documents, and contract closeout including as-built drawings and
35 Operation & Maintenance manuals and training.

36 ~~{(k)}~~(l) Corporation — The term *Corporation*, as used in this ~~[Act]~~ Chapter, shall mean an
37 association of individuals or legal entity created by or under the authority of the laws of a
38 territory, state or nation, composed, in some rare instances, of ~~{f}~~ a single person and his
39 successors, being the incumbents of a particular office, but ordinarily consisting of an
40 association of numerous individuals.

41 ~~{(l)}~~(m) CSCS---- The term *CSCS* as used in this ~~[Act]~~ Chapter shall mean the California
42 Special Civil Seismic examination ~~[provided]~~ prepared by the California Board of
43 Professional Engineers and Land Surveyors.

44 (n) IDP — The letters ‘IDP’ as used in this Chapter shall mean Intern Development
45 Program prepared and issued by the NCARB.

46 (o) L.A.R.E. — The letters ‘L.A.R.E.’ as used in this Chapter shall mean the landscape
47 architect registration examination prepared by the Council of Landscape Architectural

1 Registration Boards.

2 (p) NCARB — The term ‘NCARB’ as used in this Chapter shall mean the National Council
3 of Architectural Registration Boards.

4 (q) NCEES — The term ‘NCEES’ as used in this Chapter shall mean the National Council
5 of Examiners for Engineering and Surveying.

6 ~~(m)(r)~~ Partner — The term *Partner* as used in this [Aet] Chapter, shall mean one who has
7 united with others to form a partnership in business.

8 ~~(n)(s)~~ Proprietorship — The term *Proprietorship* as used in this [Aet] Chapter, shall mean
9 business, usually unincorporated, owned and controlled exclusively by one person. Such a
10 business is commonly designated a ‘sole proprietorship’.

11 ~~(o)(t)~~ Registrant or Licensee — The term *Registrant or Licensee* as used this [Aet] Chapter
12 shall mean any person holding a current registration as a Professional Engineer, Registered
13 Architect or Professional Land Surveyor.

14 ~~(p)(u)~~ Responsible Control — The term *Responsible Control*, as used in this [Aet] Chapter,
15 shall mean [~~direct control and personal supervision of engineering, architectural or land~~
16 ~~surveying projects.~~] that amount of control over and detailed knowledge of the content of the
17 technical submission during their preparation as is ordinarily exercised by professional
18 engineers, registered architects and/or professional land surveyors applying the required
19 professional standard of care. Reviewing, or reviewing and correcting, technical
20 submissions after they have been prepared by others does not constitute the exercise of
21 responsible control because the reviewer has neither control over nor detailed professional
22 knowledge of the content of such submissions throughout their preparation.

23 ~~(r)(v)~~ Responsible Managing Employee — The term *Responsible Managing Employee*, as
24 used in this Aet Chapter, shall mean a person who is licensed under this [Aet] Chapter and
25 who has been designated pursuant to §32123 of this [Aet] Chapter by the firm. The
26 managing employee is responsible for the engineering, architecture or land surveying work
27 on Guam and/or for projects or property within this jurisdiction offered or provided by the
28 firm. A licensee may not be designated as a responsible managing employee for more than
29 one (1) firm. An engineer, architect or surveyor who renders occasional part-time, or
30 consulting services to, or for, a firm may not be designated as a managing employee. The
31 managing employee’s responsibilities include:

- 32 1. Renewal of the Certificate of Authorization and notification to the Board of any change
33 in the managing employee.
- 34 2. Overall supervision of the firm’s licensed and subordinate personnel providing the
35 engineering, architecture or surveying work in this jurisdiction.
- 36 3. Institution and adherence of policies of the firm that are in accordance with the Rules of
37 Professional Conduct, adopted pursuant to Section 32109(e) of this Chapter.

38 ~~(s)(w)~~ Rules of Professional Conduct for Professional Engineers, Architects and Land
39 Surveyors — The term *Rules of Professional Conduct for Professional Engineers,*
40 *Architects and Land Surveyors* as used in this [Title] Chapter, means those rules
41 promulgated by the Board as authorized by law.

42 (x) Technical Submissions — Designs, drawings, specifications, studies, and other
43 technical documents prepared in the course of practicing engineering, architecture and land
44 surveying. All technical submissions shall be identified by date and by name and address of
45 the licensee or licensee’s firm.

46 (y) WCARB — The term *WCARB* as used in this Chapter, shall mean the Western Council
47 of Architectural Registration Boards.

1 **§32104. Board Appointments; Terms.** A Guam Board of Registration for Professional
2 Engineers, Architect and Land Surveyors is created whose duty shall be to administer the provisions
3 of this [Title] Chapter.

4 (a) The Board shall consist of seven (7) members, at least two (2) being female, to be
5 constituted as follows: the Director of Public Works, five (5) members who shall be
6 registered under the provisions of this [Title] Chapter and one (1) member of the general
7 public who shall not have been registered under the provisions of this [Title] Chapter or
8 practicing in any of the professions covered by this [Title] Chapter. Except for the Director
9 of Public Works, a member shall be appointed by *I Maga'lahaen Guahan (Governor)* for a
10 term of four (4) years. Of the five (5) registered professional members, two (2) shall be
11 registered architects, two (2) shall be professional engineers, and one (1) shall be a
12 professional land surveyor.

13 (b) The Chairman, Vice-Chairman and Secretary/Treasurer shall be elected annually by
14 majority vote of the Board members at the first regular meeting of the Board after January 1.

15 (c) Each member of the Board shall receive a notice of his appointment from the *I*
16 *Maga'lahaen Guahan (Governor)* and shall take an oath for the faithful discharge of his
17 duties. Appointments to the Board shall be in such manner so that the term of each member
18 shall expire at a different time. On the expiration of the term of any member, *I Maga'lahaen*
19 *Guahan (Governor)* shall appoint a successor. A member may be reappointed to succeed
20 himself but not for more than two (2) consecutive terms. Each member may hold office until
21 the expiration of the term for which appointed or until his successor has been duly appointed
22 and qualified.

23 (d) In the event of a vacancy on the Board for reason resulting in an unexpired term and *I*
24 *Maga'lahaen Guahan (Governor)* failing to appoint a successor within three (3) months after
25 the vacancy occurs, the Board may appoint a provisional member to serve in the interim
26 until the *I Maga'lahaen Guahan (Governor)* makes an appointment.

27 **§32105. Board -- Qualifications of Members.** Each member of the Board shall be a citizen
28 of the United States and a resident of Guam. Board members who are required to be
29 registered pursuant to §32104 of this [Title] Chapter shall have been in responsible
30 control in the lawful practice of engineering, architecture or land surveying for at least
31 ~~[five-(5)]~~ eight (8) years and with no record of disciplinary action from any jurisdiction.
32 The public member of the Board shall not be or have been an engineer, architect or land
33 surveyor.

34 **§32106. Board -- Compensation and Expenses.** (a) Each member of the Board shall be
35 entitled to receive compensation as provided for in the ~~[by-laws]~~ rules and regulations
36 and by law and shall be reimbursed for reasonable and necessary expenses incurred in
37 the course of official duties, when attending to the work of the Board or any of its
38 committees and during time spent in necessary travel.

39 (b) Members shall be reimbursed for conference or convention registration fees,
40 all actual traveling, incidental and clerical expenses necessarily incurred in carrying out
41 the provisions of this [Title] Chapter.

42 (c) The Board shall budget for and pay travel expenses of members of the Board,
43 officers, consultants and staff, as approved by the Board and certified by the Chairman.

44 **§32107. Board -- Removal of Members; Vacancies.** The *I Maga'lahaen Guahan (Governor)*
45 may remove any member for misconduct, ~~[incompetency,]~~ incompetence, neglect of
46 duty, or any sufficient cause, in the manner prescribed by law for removal of territorial
47 officials. Vacancies in the membership of the Board shall be filled for the unexpired

1 term by appointment by the *I Maga'laha*n Guahan (Governor) as provided in §32104.

2 **§32108. Board -- Organization and Meetings.** The Board shall hold at least six (6) regular
3 meetings each year. Special meetings may be held as the ~~[by-laws]~~ rules and regulations of the
4 Board provide. A quorum of the Board shall consist of not less than four (4) members, three (3) of
5 whom shall be registered under the provisions of this ~~[Title]~~ Chapter.

6 **§32109. Board – Powers.** (a) The Board shall have the power to adopt and amend all by-
7 laws and rules of procedure not inconsistent with the Organic Act of Guam and laws of ~~[this~~
8 ~~Territory,]~~ Guam, including the adoption and promulgation of Rules of Professional Conduct for
9 Professional Engineers, Architects, and Land Surveyors, which shall be binding upon persons
10 registered under this ~~[Title]~~ Chapter and which shall be applicable to corporations, partnerships or
11 associations holding a Certificate of Authorization, which may be reasonabl[e]y necessary for the
12 proper performance of its duties and the regulation of its procedures, meetings, records,
13 examinations and the conduct thereof. These actions by the Board shall be binding upon the persons
14 registered or licensed under this Chapter and on non-licensees found by the Board to be in violation
15 of provisions of the Chapter and shall be applicable to corporations holding a certificate of
16 authorization as provided in Section 32123 of this Chapter.

17 (b) The Board shall adopt and have an official seal, which shall be affixed to each
18 certificate issued.

19 (c) In carrying into effect the provisions of this ~~[Title]~~ Chapter, the Board under the hand
20 of its Chairman and the seal of the Board, may subpoena witnesses and compel their attendance and
21 also may require the submission of books, papers, documents, or other pertinent data, in any
22 disciplinary matters, or in any case wherever a violation of this ~~[Title]~~ Chapter is alleged. Upon
23 failure or refusal to comply with any such order of the Board, or upon failure to honor its subpoena,
24 as herein provided, the Board may apply to a court of any jurisdiction to enforce compliance with
25 same.

26 (d) The Board, in the name of ~~[the Territory]~~ Guam, may apply for relief by injunction in
27 the Superior Court, without bond, to enforce the provisions of this ~~[Title]~~ Chapter, or to restrain any
28 violation thereof. In such proceedings, it shall not be necessary to allege or prove, either that an
29 adequate remedy at law does not exist, or that substantial or irreparable damage would result from
30 the continued violation thereof. The members of the Board shall not be personally liable under
31 ~~[this]~~ these proceedings.

32 (e) The Board shall have prepared and shall adopt a set of rules for professional conduct
33 which shall be binding upon persons registered under this ~~[Title]~~ Chapter, and which shall be made
34 known in writing to every registrant and applicant for registration under this ~~[Title]~~ Chapter, and
35 which shall be published in the roster provided for in §32112 of this ~~[Title]~~ Chapter. The Board
36 may revise and amend these rules for professional conduct from time to time and shall forthwith
37 notify each registrant in writing of such revisions or amendments.

38 (f) The adoption and amendment of such ~~[by-laws-and]~~ rules and regulations and rules
39 of procedure and rules of professional conduct shall be in accordance with the provisions of the
40 Administrative Adjudication Law.

41 (g) The Board may subject an applicant for registration to such examinations as may be
42 provided for in the ~~[by-laws]~~ rules and regulations to determine his qualifications.

43 (h) The Board shall encourage private professional engineering and architectural
44 societies to conduct seminars to prepare applicants for the examinations and shall assist in the
45 coordination of the seminars.

46 (i) The Board shall have the power and authority to require a demonstration of
47 continuing professional competency of engineers, architects and land surveyors as a condition of

1 renewal or relicensure.

2 (j) The Board shall have the authority for citation and fining persons and business
3 entities engaged in the unlawful practice of engineering, architecture and land surveying who are not
4 licensed or authorized in this jurisdiction in accordance with Sections 32121 and 32122, and as
5 provided by law.

6 (k) The Board shall maintain the PEALS Revolving Fund within the cognizance of the
7 members of the Board to continue to manage the day-to-day financial obligations of the Board.
8 Such revolving fund shall be maintained separate and apart from other funds of the government of
9 Guam, and independent records and accounts shall be maintained in connection therewith as
10 prescribed by the Chairman and members of the Board. Furthermore, said Fund shall be subject to
11 an annual audit by an independent auditor.

12 (l) The Board shall have the power to appoint committees to assist the Board's efforts in
13 carrying out the responsibilities of this Chapter.

14 (m) The Board shall have the power to adopt and collect fees in amounts necessary to
15 enable the Board to carry out its function under this Chapter.

16 (n) The Board shall retain and exercise all administrative and civil rights and remedies
17 commonly available to agencies in the jurisdiction. No action or other legal proceedings for
18 damages shall be instituted against the Board or against any Board Member or employee or agent of
19 the Board for any act done in good faith and in the intended performance of any power granted
20 under this Chapter or for any neglect or default in the performance or exercise in good faith of any
21 such duty or power.

22 **§32110. Records and Reports.** (a) The Board shall keep a record of its proceedings
23 and of all applications for registration, which record shall show:

- 24 (1) the applicant's name, age and last known address;
- 25 (2) the date of the application;
- 26 (3) the applicant's place of business;
- 27 (4) the applicant's education, experience and other qualifications;
- 28 (5) the type of examination required;
- 29 (6) whether or not the applicant was rejected;
- 30 (7) whether or not a certificate of registration was granted;
- 31 (8) the date of the action by the Board; and
- 32 (9) such other information as may be deemed necessary by the Board.

33 (b) The record of the Board shall be *prima facie* evidence of the proceedings of the
34 Board, and a transcript thereof, duly certified by the Secretary under seal, shall be admissible
35 as evidence with the same force and effect as if the original were produced.

36 (c) At the end of every fiscal year, the Board shall prepare and submit to *I Maga'lahaen*
37 *Guahan* (Governor) and to *I Liheslaturan Guahan* (Guam Legislature) no later than the
38 first day of November, a report of its transactions of the preceding year, and shall
39 transmit to them a complete statement of the receipts and expenditures of the Board,
40 attested by affidavits of its Chairman and its Secretary/Treasurer.

41 (d) Board records and papers of the following class are of a confidential nature and are not
42 public records: all examination materials for examinations not yet given and examination
43 solutions for which the grades have not yet been published; file records of examination
44 problem solutions, letters of inquiry and reference concerning applicants, Board inquiry
45 forms concerning applicants, investigation files where any investigation is still pending,
46 and all other matters of like confidential nature.

47 **§32111. Receipts and Disbursements.** (a) Notwithstanding the Central Accounting Act,

1 all fees and money collected under the provisions of this ~~[Title]~~ Chapter shall be deposited in a
2 special fund known as the *Professional Engineers, Architects and Land Surveyors Fund*. This fund
3 shall be kept in a bank licensed to do business on Guam and funds shall be paid out only upon a
4 request for payment or requisition submitted by the Secretary/Treasurer or its personnel and
5 countersigned by the Chairman of the Board. All monies in this fund are hereby specifically
6 appropriated only for the use of the Board in pursuit of its authority.

7 (b) The Board shall provide surety bonds in the name of Guam on behalf of the Chairman, the
8 Secretary/Treasurer and the Executive Board Administrator, in the sum of Thirty Thousand Dollars
9 (\$30,000) each. The premium on said bonds shall be regarded as proper and necessary expenses of
10 the Board.

11 (c) Upon an appropriation by *I Liheslaturan Guahan* (Guam Legislature) and subject to any
12 limitations which may be contained therein, the Board shall make expenditures from this fund for
13 any purpose which is approved by the Board as reasonable and necessary for the proper
14 performance of its duties under this ~~[Title]~~ Chapter, including the expenses of the Board delegates to
15 meetings of and the membership fees to the National Council of Examiners for Engineering and
16 Surveying and any of its subdivisions and the National Council of Architectural Registration Boards
17 and any of its subdivisions.

18 (d) The Board shall employ in the classified positions an Executive Board Administrator,
19 Administrative Assistant, Board Investigator and other administrative staff as are necessary for the
20 proper performance of its work. Salaries and other terms of compensation for each Board staff
21 position shall be determined by the ~~[Civil Service Commission]~~ Department of Administration.
22 Payments of expenses and salaries pursuant to the administration of this ~~[Title]~~ Chapter may not
23 exceed available funds of the Board.

24 (e) The Chairman of the Board is the designated Certifying Officer and all expenditures from
25 the fund shall be certified by the Chairman of the Board. Under no circumstance shall the amount of
26 warrants issued in payment of the expenses and compensation provided for in this ~~[Title]~~ Chapter
27 exceed the amount of money collected.

28 (f) The Board shall adopt rules or ~~[by-laws]~~ regulations to provide for an annual budget, an
29 accounting procedure, and the fees for application, registration, examination, re-examination,
30 reciprocity, renewal of registration, temporary permits, corporation permits, replacement of
31 certificates, reconsideration of application, and other services.

32 (g) The Board shall maintain membership in NCARB, NCEES and its subdivisions and pay the
33 necessary costs thereof.

34 **§32112. Roster.** A complete roster showing the names and last known addresses of all
35 registered engineers, architects, land surveyors, and business entities shall be published by the
36 Secretary of the Board annually not later than the last day of the third month of each year, and shall
37 include each registrant's certificate or registration number. The roster shall be in non-editable
38 electronic format which is printable and available via the internet. Notice of the publication and
39 availability of the ~~{Copies of this}~~ roster shall be mailed to each person so registered ~~[and to each~~
40 ~~applicant for registration]~~, paper copies of the roster [and] shall be placed on file with *I Maga'laha*
41 *Guahan* (Governor), the Speaker of *I Liheslaturan Guahan* (Guam Legislature), and other state and
42 territorial boards, and with each department and agency of the Government of Guam. ~~[Additional~~
43 ~~copies may be purchased from the PEALS Board office.]~~

44 **§32113. General Requirements for Registration.** (a) No person shall be eligible for
45 admission to the examination for registration for professional engineer, architect or land surveyor, or
46 for enrollment as an engineer intern or land surveyor intern, under this ~~[Title]~~ Chapter unless he:

47 (1) is a citizen of the United States or a ~~[permanent resident alien eligible for United States~~

- 1 ~~citizenship;~~ legally admitted alien authorized to work in the United States;
2 (2) is of good moral character and repute.
3 (3) meets the professional qualifications prescribed by this [Title] Chapter; and;
4 (4) submits five (5) references with the applicant's application for registration as a
5 professional engineer, architect or land surveyor, three (3) of which shall be from
6 practitioners registered in the discipline in which he seeks registration and having
7 personal knowledge of his experience in that discipline, or in the case of an application
8 for certification as an engineer intern or land surveyor intern, by three (3) character
9 references.

10 (b) The following shall be considered as minimum evidence satisfactory to the Board that the
11 applicant is qualified for registration:

12 (1) as a Professional Engineer:

13 (i) ~~[Graduation, Experience and] Licensure or Registration by Examination —~~
14 An Engineer Intern with a specific record of an additional four years or more of
15 progressive experience on engineering projects of a grade and character which indicates
16 to the Board that the applicant may be competent to practice engineering shall be
17 admitted to an eight hour written examination in the principles and practices of
18 engineering, and in the case of specific engineering disciplines, other examinations as
19 prescribed in the by-laws. ~~[graduate of an engineering curriculum of four (4) years or~~
20 ~~more approved by the Board as being of satisfactory standing; and with a specific record~~
21 ~~of an additional four (4) years of lawful progressive experience on engineering projects~~
22 ~~satisfactory to the Board, at least one (1) year of which shall have been under the~~
23 ~~supervision of a registered engineer of a grade and character which indicates to the Board~~
24 ~~that the applicant may be competent to practice engineering, shall be admitted to a~~
25 ~~written examination in the fundamentals of engineering and a written examination in the~~
26 ~~principles and practice of engineering as prescribed by the by-laws.] (Upon passing such~~
27 examination(s), the applicant shall be granted a certificate of registration to practice
28 engineering on Guam, provided the applicant is otherwise qualified.)

29 (ii) Graduation, Experience and Examination — A graduate of an engineering or
30 related science curriculum of four (4) years or more, other than the ones approved by the
31 Board as being of satisfactory standing, and with a specific record of eight (8) years or
32 more of progressive experience, at least two (2) years of which shall have been under
33 the supervision of a registered engineer on projects of a grade and character which
34 indicates to the Board that the applicant may be competent to practice engineering, shall
35 be admitted to a written examination in the fundamentals of engineering and a written
36 examination in the principles and practice of engineering as prescribed in the by-laws.
37 Upon passing such examination, the applicant shall be granted a certificate of registration
38 to practice engineering on Guam, provided the applicant is otherwise qualified.

39 (iii) A Non-graduate from a Technical Curriculum — A non-graduate of an
40 engineering or related science curriculum of four (4) years or more, with a specific
41 record of three (3) years or more in such a curriculum plus twelve (12) years or more of
42 progressive experience on engineering projects four (4) years of which must have been
43 under the supervision of a registered engineer and of which at least six (6) years have
44 been in responsible control of engineering projects of a grade and character which
45 indicates to the Board that the applicant may be competent to practice engineering, shall
46 be admitted to a written examination in the fundamentals of engineering and the
47 principles and practice of engineering as prescribed in the by-laws. Upon passing such

1 examination, the applicant shall be granted a certificate of registration to practice
2 engineering on Guam, provided the applicant is otherwise qualified.

3 (iv) Licensure or Registration by Comity or Endorsement — A person whose
4 qualifications meet the requirements of this [Title] Chapter may, upon application, be
5 registered as a professional engineer identical to his active engineer registration in other
6 jurisdictions if:

7 (aa) ~~[the applicant holds]~~ a current certificate of registration [~~to engage~~] in
8 the practice of engineering issued ~~{to him}~~ by a proper authority of a ~~[state, territory]~~
9 jurisdiction or possession of the United States, the District of Columbia or any
10 foreign country, based on requirements that do not conflict with the provisions of this
11 Chapter ~~[from which a certificate of registration is recognized by the National~~
12 ~~Council of Examiners for Engineering and Surveying at such time that the National~~
13 ~~Council of Examiners for Engineering and Surveying recognizes registration from~~
14 ~~any foreign country, so long as the issuance of such certificate is based on verified~~
15 ~~evidence and is based on requirements that do not conflict with the provision of this~~
16 ~~Title]~~ and possessing credentials that are, in the judgment of the Board, [which are]
17 of a standard not lower than specified in the applicable section of this [Title] Chapter
18 in effect in Guam at the time such certificate was issued may upon application, which
19 may include a Council Record with NCEES, be registered or licensed without further
20 examination except as required to present evidence of knowledge of statutes, rules,
21 and design requirements unique to this jurisdiction, provided that ;[or]

22 (bb) he holds a valid certificate issued by the Committee on National
23 Council of Engineering Certification of the National Council of Examiners for
24 Engineering and Surveying;

25 (cc) the applicant passes the California Special Civil Seismic examination
26 (for Civil Engineering applicants only);

27 (dd) the applicant passes the Fundamentals of Engineering examination
28 (for applicants with Fundamentals of Engineering waivers from other jurisdictions);
29 and

30 (ee) the applicant maintains current registration ~~from his based jurisdiction~~
31 ~~where license was obtained through examination in with~~ at least one other
32 jurisdiction, the District of Columbia, a territory or a possession of the United States.

33 (ff) A person holding an active Council Record with the NCEES, whose
34 qualifications as evidenced by the Council Record, meet the requirements of this
35 Chapter, may, upon application, be licensed or registered without further examination
36 except as required to examine the applicant's knowledge of statutes, rules and design
37 requirements unique to this jurisdiction, provided the applicant passes the California
38 Special Civil Seismic (CSCS) examination (for Civil engineering applicants only).

39 (v) Engineering Teaching — Engineering teaching in a college or university offering an
40 approved engineering curriculum of four (4) years or more may satisfy only a portion of
41 the required engineering experience.

42 (2) As an Engineer Intern:

43 (i) ~~[Graduation and Examination]~~ A college senior or a graduate of an engineering
44 curriculum of four (4) years or more, ~~approved by the Board as being of satisfactory~~
45 ~~standing who has passed the examination as prescribed in the by-laws accredited by~~
46 EAC/ABET, or the equivalent shall be admitted to the current form of examination in the

1 Fundamentals of Engineering prepared and furnished by NCEES. Upon passing such
2 examination and providing proof of graduation, the applicant shall be certified or
3 enrolled as an engineer intern, if the applicant is otherwise qualified.

4 (ii) Experience and Examination — An applicant with a record of six (6) or more years of
5 experience in engineering work of a grade and character satisfactory to the Board, and
6 who passes the examination as prescribed in the by-laws shall be certified or enrolled as
7 an engineer intern, if the applicant is otherwise qualified.

8 (iii) Graduation, Experience and Examination — A graduate of an engineering or related
9 science curriculum of four (4) years or more, other than the ones approved by the Board
10 as being of satisfactory standing, shall be admitted to an examination as prescribed in the
11 by-laws. Upon passing such examination, the applicant shall be certified or endorsed as
12 an engineer intern, if the applicant is otherwise qualified.

13 (3) As an Architect:

14 (i) ~~[Graduation,]~~ Education, Experience and Examination — A graduate of an NAAB
15 accredited program ~~[curriculum of not less than five (5) years]~~ from a school of
16 architecture approved by the Board as being of satisfactory standing and at least three (3)
17 years of progressive experience satisfactory to the Board in architectural work covering
18 the major categories of architectural practice, at least two (2) years of which shall have
19 been under the supervision of a registered architect, shall be eligible for a written
20 examination as prescribed in the ~~[by-laws]~~ rules and regulations. Upon passing such
21 examination, the applicant shall be granted a certificate of registration to practice
22 architecture in ~~[this territory]~~ Guam, if the applicant is otherwise qualified.

23 (aa) Effective June 1, 2009, a new or inactive candidate applying to the Board for
24 eligibility evaluation for the Architect Registration Examination (ARE) shall prior to
25 registration or licensure complete the Intern Development Program (IDP) of the National
26 Council of Architectural Registration Boards (NCARB), as defined herein and in the
27 rules and regulations set forth, and the most recent or current form of IDP guidelines
28 prepared and prescribed by the NCARB. The IDP requirement does not apply to a
29 candidate who: (a) was determined by the Board to be eligible on or before May 31,
30 2009 and who is active in the examination process; or (b) has completed all the
31 necessary education equivalents prior to June 1, 2009, who has submitted a completed
32 application for eligibility evaluation to the Board that is postmarked on or before May
33 31, 2009, and who has been determined by the Board to be eligible.

34 (bb) A new or inactive candidate shall submit an Application form, as prescribed
35 and furnished by the Board, and accompanied by such supporting documents required
36 herein. Such supporting documents shall include the candidate's current and valid IDP
37 file transmitted by NCARB.

38 (cc) As a candidate acquires additional work experience, it is the candidate's
39 responsibility to ensure that his/her employer(s) complete Employment Verification
40 Forms covering the work experience gained with that employer and that the forms are
41 submitted to the Board. Reporting shall be as per most current NCARB policies and
42 procedures.

43 (dd) Completion of the IDP shall fulfill the lawful experience requirement
44 provided in this Chapter and in the rules and regulations.

45 (ii) Experience and Examination — An applicant having eight (8) years of architectural training
46 or educational experience satisfactory to the Board of which a minimum of three (3) years
47 shall be experienced covering the major categories of architectural practice under the

1 supervision of a registered architect, shall be eligible for a written examination as prescribed
2 in the ~~[by laws]~~ rules and regulations. Upon passing such examination, the applicant shall
3 be granted a certificate of registration to practice architecture on Guam, if the applicant is
4 otherwise qualified.

5 (iii) Licensure or Registration by Comity or Endorsement — A person shall be licensed or
6 registered without further examination, if that person: ~~[who in the opinion of the Board~~
7 ~~meets the requirements of this Title and who holds a certificate of registration to engage in~~
8 ~~the practice of architecture on the basis of comparable qualifications issued by the proper~~
9 ~~authority of a state, Territory or possession of the United States, or the District of Columbia,~~
10 ~~or by any foreign country with which the National Council of Architectural Registration~~
11 ~~Boards holds a formal agreement of inter-recognition, based on requirements that do not~~
12 ~~conflict with the provisions of this Title and which are of a standard not lower than specified~~
13 ~~in the applicable section of this Title in effect on Guam at the time such certificate was~~
14 ~~issued, and based on verified evidence, as set forth in a current certificate of qualification~~
15 ~~issued by the National Council of Architectural Registration Boards, be registered without~~
16 ~~further examination.]~~

17 (aa) holds a current and valid registration issued by a registration authority recognized by the
18 Board; and

19 (bb) holds a National Council of Architectural Registration Board's Record; and

20 (cc) files his application with the Board, upon a form prescribed and furnished by the Board,
21 containing such information satisfactory to the Board, concerning the person, as the Board
22 considers pertinent.

23 (4) As a Landscape Architect:

24 (i) Licensure or Registration by Comity or Endorsement: A person, shall be registered without
25 further examination, if that person:

26 (aa) holds a current and valid registration to engage in the practice of landscape architecture
27 issued by a proper authority of a state or jurisdiction or possession of the United States, the
28 District of Columbia or any foreign country, have successfully passed a Council of
29 Landscape Architectural Registration Boards (CLARB) landscape architectural registration
30 examination (LARE); or

31 (bb) holds a current and active Council Record issued by the CLARB; and

32 (cc) files his application on a form prescribed and furnished by the Board, containing such
33 information satisfactory to the Board, concerning the person as the Board considers
34 pertinent.

35 ~~(4)(5)~~ As a Land Surveyor:

36 The evaluation of a professional surveyor applicant's qualifications involves consideration of
37 education, technical, and surveying experience, exhibits of surveying projects with which the
38 applicant has been associated, recommendations by references, and a review of these categories
39 during the interview if the Board deems it necessary. The following shall be considered as
40 minimum evidence to the Board that the applicant is qualified for registration or licensure as a
41 professional surveyor:

42 (i) Licensure or Registration by [Graduation, Experience and] Examination — A graduate of a
43 surveying curriculum of four (4) years or more at an institution approved by the Board as
44 being of satisfactory standing and with a specific record of an additional four (4) years or
45 more of progressive combined office and field experience on land surveying work at least
46 two (2) years of which shall be under the supervision of a registered land surveyor and of a
47 grade and character which indicates to the Board that the applicant may be competent to

1 ~~practice land surveying, surveyor Intern with a specific record of an additional four (4) years~~
2 ~~of combined office and field experience satisfactory to the Board, in surveying, of which a~~
3 ~~minimum of three (3) years' progressive experience has been on surveying projects under~~
4 ~~the supervision of a professional surveyor shall be eligible to take the current form of~~
5 ~~examination prepared and furnished by the NCEES [or a written examination in the~~
6 ~~fundamentals of land surveying,] in the principles and practice of land surveying, and in~~
7 ~~Guam Land Matters as prescribed in the by-laws. (Upon passing such examination, the~~
8 ~~applicant shall be granted a certificate of registration to practice land surveying on Guam,~~
9 ~~provided the applicant is otherwise qualified.)~~

10 (ii) Education, Experience and Examination — A graduate of a surveying or related science
11 curriculum of four (4) years or more, other than the ones approved by the Board as being of
12 satisfactory standing, and with a specific record of an additional eight (8) years of combined
13 office and field experience satisfactory to the Board in land surveying of which a minimum
14 of three (3) years experience has been in responsible control of land surveying projects under
15 the supervision of a registered land surveyor, shall be admitted to a written examination in
16 the fundamentals of land surveying, in the principles and practice of land surveying and in
17 Guam Land Matters as prescribed in the by-laws. Upon passing such examination, the
18 applicant shall be granted a certificate of registration to practice land surveying on Guam,
19 provided he is otherwise qualified.

20 (iii) Experience and Examination — An applicant with a specific record of twelve (12) years or
21 more of practice in land surveying, of which at least eight (8) years have been in responsible
22 control of important land surveying work under the supervision of a registered land
23 surveyor, and of a grade and character satisfactory to the Board which indicates to the Board
24 that the applicant may be competent to practice land surveying, and who has passed a written
25 examination in the fundamentals of land surveying, in the principles and practice of land
26 surveying and in Guam Land Matters, shall be granted a certificate of registration to practice
27 land surveying on Guam, provided he is otherwise qualified.

28 (iv) Licensure or Registration by Comity or Endorsement —

29 (aa) A person holding a certificate of registration to engage in the practice of land
30 surveying ~~[on the basis of comparable qualifications]~~ issued by a proper authority of a
31 jurisdiction [state, territory] or possession of the United States or the District of
32 Columbia, or any foreign country, based on requirements that do not conflict with the
33 provisions of this [who in the opinion of the Board meets the requirements of this Title]
34 Chapter, and possessing qualifications that are, in the judgment of the Board, not lower
35 than that specified in the applicable licensure act in effect in this jurisdiction at the time
36 such certificate was issued, may upon application, which may include a Council Record
37 with the NCEES, be licensed without further examination except as required to present
38 evidence of knowledge of statutes, rules and surveying requirements unique to this
39 jurisdiction, provided that [will be given comity consideration. However, the applicant
40 may be required to take such examinations as the Board may deem necessary to
41 determine the applicant's qualifications, but in any event,] the applicant shall be required
42 to pass a written examination of not less than four (4) hours duration on Guam Land
43 Matters, which shall include questions on laws, procedures and practices pertaining to
44 land surveying on Guam.

45 (bb) A person holding an active Council Record with the NCEES, whose qualifications as
46 evidenced by the Council Record, meet the requirements of this Chapter, may, upon
47 application, be licensed without further examination except as required to examine the

1 applicant's knowledge of statutes, rules and surveying requirements unique to this
2 jurisdiction, provided that the applicant shall be required to pass a written examination of
3 not less than four (4) hours duration on Guam Land Matters, which shall include
4 questions on laws, procedures and practices pertaining to land surveying on Guam.

5 (v) Surveying Teaching — Surveying teaching in a college or university offering an approved
6 surveying curriculum of four (4) years or more may be considered as land surveying
7 experience satisfactory to the Board.

8 (5) As a Land Surveyor Intern:

9 (i) ~~[Graduation]~~ Education and Examination — A college senior or a graduate of surveying
10 curriculum of four (4) years or more approved by the Board as being of satisfactory standing
11 shall be admitted to a written examination in the fundamentals of land surveying, as
12 prescribed in the by-laws. Upon passing such examination, the applicant shall be certified or
13 enrolled as a land surveyor intern, if he is otherwise qualified.

14 (ii) Education, Experience and Examination — An applicant, upon satisfactory completion of a
15 land surveying or related science curriculum of two (2) years or more, and with a specific
16 record of an additional (4) years of combined office and field experience in land surveying
17 satisfactory to the Board, shall be admitted to a written examination in the fundamentals of
18 land surveying as prescribed in the by-laws. Should the applicant fail to pass the
19 fundamentals of land surveying examination on two occasions, the applicant shall be
20 required to complete a refresher course satisfactory to the Board before being readmitted for
21 examination. Upon passing such examination, the applicant shall be certified or enrolled as
22 a land surveyor intern, if he is otherwise qualified.

23 **§32114. Application and Registration Fees.** (a) Application for registration as a professional
24 engineer, architect or land surveyor or for certification as an engineer intern or land surveyor intern,
25 or for certificates of authorization, shall be on a form prescribed and furnished by the Board. It shall
26 contain statements made under oath showing the applicant's education and a detailed summary of
27 his technical and engineering, architectural and land surveying experience, and shall include the
28 names and complete mailing addresses of his references, none of whom ~~{should be}~~ is a current
29 member of the Board, as required in §32113 of this ~~[Title]~~ Chapter.

30 The Board may accept the certified information contained in a valid Council Record issued by
31 the National Council of Examiners for Engineering and Surveying Committee on National
32 Engineering Certification for professional engineer applicants or a valid Council Record issued by
33 the National Council of Architectural Registration Boards for architect applicants in lieu of the same
34 information that is required on the form prescribed and furnished by the Board.

35 (b) The application (for individuals and COAs), examination, and registration (for individuals
36 and COAs) fees shall be prescribed by the Board and shall be specified in the ~~[by-laws]~~ rules and
37 regulations.

38 (c) No fee refund will be made after the application has been received and acted upon by the
39 Board even if registration is denied.

40 **§32115. Examinations.** (a) The applicant may be subjected to such examinations as may be
41 deemed necessary to determine his qualifications. The examinations will be held at such times and
42 place as the Board may direct.

43 (b) Written examinations as specified in the ~~by-laws~~ rules and regulations may be taken only
44 after the applicant has met the other minimum requirements as provided for by §32113.

45 (c) A candidate failing an examination may apply for re-examination, which may be granted
46 upon payment of a fee established by the Board.

47 (d) A candidate whose grade in a previous examination indicates that he is unprepared may at

1 the discretion of the Board be required to wait one (1) year before being eligible for re-examination.

2 (e) The Board shall have prepared and adopted a syllabus for the written examinations in
3 engineering, architecture, and land surveying. It shall be published in brochure form and be
4 available as a handout to any person interested in being registered as a professional engineer,
5 architect, or land surveyor.

6 (f) Members of the PEALS Board are prohibited from taking any engineering, architecture or
7 land surveying examination administered on Guam while serving on the Board. However, members
8 may take such in another jurisdiction and have the examination scores accepted on Guam by the
9 Board, so long as said examination does not conflict with the provisions of this ~~[Title]~~ Chapter and
10 is of a standard not lower than that of an examination for the same administered on Guam.

11 **§32116. Certificates -- Seals.** (a) The Board shall issue to each applicant meeting the
12 requirements of this ~~[Title]~~ Chapter a certificate of registration which gives the registrant proper
13 authority to practice his profession on Guam. The certificate of registration for a professional
14 engineer shall carry the designation 'PROFESSIONAL ENGINEER' and shall also designate the
15 branch in which he is authorized to practice. The certificate of registration for an architect shall
16 carry the designation 'REGISTERED ARCHITECT' and the certificate of registration for a land
17 surveyor shall carry the designation 'PROFESSIONAL LAND SURVEYOR'. It shall give the full
18 name of the registrant with his registration number and shall be signed by the Chairman, ~~[and]~~ the
19 Secretary/Treasurer and the Executive Board Administrator under the seal of the Board.

20 A properly entitled and endorsed identification card shall be issued with the certificate of
21 registration and reissued thereafter as prescribed by §32117 of this ~~[Title]~~ Chapter to each registrant
22 upon payment of the renewal fee.

23 Every registered engineer, architect or land surveyor having a place business or employment
24 within this jurisdiction shall display his certificate of registration in a conspicuous place in such
25 place of business or employment.

26 (b) The issuance of a certificate of registration by the Board shall be prima facie evidence that
27 the person named therein is entitled to all the rights, privileges, and responsibilities of an engineer,
28 architect or land surveyor while the said certificate remains unrevoked or unexpired.

29 (c) The Board shall issue to each applicant meeting the requirements of this ~~[Title]~~ Chapter a
30 certificate of "engineer intern" or "land surveyor intern" as applicable. The certificate issued to the
31 "engineer intern" or "land surveyor intern" does not authorize the practice of engineering or land
32 surveying and only indicates that his name has been recorded by the Board as having passed the
33 required examination.

34 (d) Each registrant hereunder shall, upon registration licensure, ~~[obtain a stamp or seal of the]~~
35 have a seal of a design authorized by the Board, bearing the registrant's name, registration number,
36 and the designation, "Professional Engineer", "Registered Architect" or "Professional Land
37 Surveyor". For Professional Engineers, the stamp or seal shall contain the specific discipline for
38 which he is authorized, the expiration date of the registrant, or a space within which the expiration
39 date must be written:

40 (1) The seal shall be an image ~~[or]~~ , imprint ~~[from a rubber stamp]~~ or other medium
41 approved by the Board. Except for progress submittals, [W]whenever the seal is applied to a
42 final work product, the registrant's written signature ,and date shall be signed adjacent to the
43 seal with the statement "This work was prepared by me or under my [direct supervision]
44 responsible control". If the work product is not intended for construction, a statement to
45 that effect shall be placed on the document adjacent to the seal. A facsimile signature will
46 not be acceptable. Computer-generated signatures and dates are not acceptable.

47 (2) Seals must be a permanent mark on the document being sealed. The standard seal

1 must be used on all original tracings, blueprints, drawings, specifications, reports, and other
2 documents prepared by professional engineers, registered architects or professional land
3 surveyors.

4 (3) The seal and dated signature shall be placed on all technical submissions such as
5 specifications, reports, plats, drawings, plans, design information and calculations whenever
6 presented to a client or any public or government agency including government in-house
7 designs.

8 (4) The seal and dated signature shall be placed on all original copies, tracings or other
9 reproducible documents in such a manner that the seal and signature will be reproduced.
10 The application of the registrant's licensee's seal and signature shall constitute certification
11 that the work thereon was done by him or under his responsible control. In the case of
12 multiple sealings, the first or title page shall be sealed and signed by all involved. In
13 addition, each sheet shall be sealed and signed by the registrant or registrants responsible for
14 each sheet. In the case of an authorized firm, partnership or corporation, each sheet shall be
15 sealed and signed by the registrants involved. ~~The principal in responsible control~~ The
16 Responsible Managing Employee (RME) in charge of operations within the jurisdiction shall
17 sign, seal, and date the title or the first sheet.

18 (5) The seal and signature and date shall be used by registrants only when the work
19 being stamped was under the registrant's complete direction and responsible control,
20 provided that if the work was performed at an office outside of the locale in which the
21 registrant permanently resides, then the seal may be used only if the registrant supervised the
22 work on a full-time basis.

23 (6) In the case of temporary permit issued to a registrant licensee of another state or
24 jurisdiction, the registrant shall use his state of registration seal and shall affix his signature
25 and temporary permit number and date of issue to all his work.

26 (7) It shall be unlawful for a registrant to affix or permit his seal and signature, or
27 facsimile thereof, to be affixed to any document as above described after the expiration of a
28 certificate, or for the purpose of aiding or abetting any attempt to evade any provision of this
29 {Title} Chapter.

30 (8) **Seals of Professional Engineers on Engineering Documents:**

31 (i) The seal of a professional engineer shall be placed on each drawing,
32 specification, plan, report or other document which is in its final form and which
33 involves the practice of engineering as defined in this {Title} Chapter. A separate seal of
34 a professional engineer of the appropriate branch of engineering, as such branches are
35 designated on the various forms of professional engineer registration certificates, is
36 required for each portion of such document that involves a separate branch of
37 engineering registration certificates, is required for each portion of such document that
38 involves a separate branch of engineering, except as provided in Sub-item (ii) of this
39 item (8). For example, except as provided in Sub-item (ii) of this item (8), so long as
40 registration certificates classify 'civil engineering', 'structural engineering', 'mechanical
41 engineering' and 'electrical engineering' as different branches of engineering, the seal of
42 a professional engineer of the civil branch shall be required for each portion of an
43 engineering document involving civil work; the seal of a professional engineer of the
44 structural branch or civil branch shall be required for each portion of engineering
45 document involving structural work for any structure or building three (3) stories or less
46 in height; wherein the height of the stories shall be defined as not more than twelve (12)
47 feet, the seal of a professional engineer of the structural branch shall be required for each

1 portion of an engineering document involving structural work for any structure or
2 building higher than three (3) stories; the seal of a professional engineer of the
3 mechanical branch shall be required for each portion of an engineering document
4 involving mechanical work; and the seal of a professional engineer of the electrical
5 branch shall be required for each portion of an engineering document involving electrical
6 work.

7 (ii) The requirement of a separate seal for each portion of an engineering
8 document involving a separate branch of engineering is subject to the following
9 exceptions:

10 (aa) in the case of a document involving an individual single family
11 dwelling, two (2) family dwellings, or two (2) family dwellings in a subdivision, the
12 seal of a professional engineer in the civil branch or the seal of an architect shall be
13 sufficient;

14 (bb) in the case of a document involving work incidental to the practice of
15 engineering, the seal of any professional engineer, regardless of his branch of
16 engineering, or the seal of an architect shall be sufficient.

17 (cc) seal of a professional engineer of the mechanical branch is sufficient
18 for documents involving plumbing work, air-conditioning and ventilation, regardless
19 of the height of a building;

20 (dd) in the case of document involving the design of a fire sprinkler
21 system, a seal of a professional engineer in the ~~[mechanical]~~ fire protection branch
22 shall be required.

23 (ee) in the case of a document involving the structural portion of a site
24 adaptation of a pre-engineered structure or building, the seal of a professional
25 engineer of either the civil branch or the structural branch is sufficient; and

26 (ff) in the case of a document involving work for which more than one (1)
27 branch of engineering is qualified, other than those types of work provided for in
28 Sub-items (aa), (bb), (cc), (dd), and (ee) of this item (8), the Board shall promulgate
29 general guidelines for the sealing of such a document. The guidelines shall reflect
30 that there are often broad overlaps between the authorized practice of the various
31 branches of engineering.

32 (9) Seals of Architects.

33 (i) All technical submissions, such as drawings, specifications, plans, reports or
34 other documents, prepared by a registered architect or under his responsible control
35 shall bear his seal, which shall mean that the architect was in responsible control over
36 the content of such technical submissions during their preparation and has applied the
37 required professional standard of care. An architect may sign and seal technical
38 submissions, only if the technical submissions were: (1) prepared by the architect, or;
39 (2) prepared by persons under the architect's responsible control. ~~[The seal of an
40 architect shall be placed on each drawing, specification, plan, report or other
41 document which is in its final form and which involves work with respect to any
42 building which has as its principal purpose human occupancy or habitation, or which
43 involves any other aspect of the practice of architecture as defined in this Title.]~~

44 (ii) Notwithstanding the provisions of Sub-item (i) of this item (9), in the case of
45 a document involving an individual single family dwelling, a seal of either an
46 architect or a professional engineer of the civil engineering branch shall be sufficient.
47 Documents involving two (2) family dwellings, or a subdivision development with

1 single family and two (2) family dwellings, the seal of a professional engineer of the
2 civil engineering branch is sufficient.

3 (iii)The requirement contained in Sub-item (4 i) of this item (9) does not affect
4 the need for a seal of a professional engineer of the appropriate branch of engineering
5 for each portion of a document that involves a system of a separate branch of
6 engineering.

7 (10) Seals of Professional Land Surveyors:

8 (i) The seal of a Land Surveyor shall be placed on each drawing, plan, property
9 metes and bounds descriptions, computation sheets, reports and other documents in
10 their final form which involve the practice of land surveying, to wit:

11 (aa) any office offering to perform land surveys must have a licensed
12 professional land surveyor in charge of the operations, be available on a full time
13 basis with a 75% physical presence and must have full control of the survey
14 operation;

15 (bb) to further insure that field conditions of survey documents are in full
16 conformance with such survey, the surveyor of record is required to establish a field
17 reference point from which building corners, setbacks and other pertinent points may
18 be derived if and when improvements are contemplated on a property. This reference
19 point must remain in place and be protected from damage for the duration of the
20 construction of a project. Such reference point must be indicated as referenced on
21 the site plan of the project. It will be the surveyor's responsibility to follow setbacks
22 defined in the Zoning Law as may be required for building permit purposes; and

23 (cc) all documents prepared and certified by a professional land surveyor
24 shall be stamped with a statement under the seal stating: "I hereby certify that this
25 map was prepared by me or under my direct supervision, that it is based on a field
26 survey made in (insert date), in accordance with all applicable laws and regulations,
27 and that I am responsible for the accuracy of all data and information shown hereon.
28 I also certify that all the monuments are of the character and occupy the positions
29 indicated in this map".

30 (11) With respect to work incidental to the practice of engineering and work incidental to
31 the practice of architecture, the Board shall promulgate general guidelines which shall include
32 examples of incidental work and which shall set limitations on the permissible extent of such
33 incidental work. Such guidelines shall be consistent with items (8) and (9) of this Subsection
34 (d), including the requirements in those items for separate seals per branch of engineering and
35 for the seal of an architect in the case of a building which has as its principal purpose human
36 occupancy or habitation.

37 (12) An Engineer, Architect and Land Surveyor shall provide construction contract
38 administration when applications are made for building or construction permits involving the
39 public safety and health. The term "construction contract administration" means making periodic
40 visits to the site by a registered engineer, architect or land surveyor or authorized representatives
41 as the case may require, to observe the progress and quality of the executed work and to
42 determine, in general, if the work is proceeding in accordance with the contract documents. It is
43 not required that they make exhaustive or continuous on-site inspections to check the quality or
44 quantity of the work nor it is intended that the engineer, architect and land surveyor be
45 responsible for construction means, methods, techniques, sequences or procedures, or for safety
46 precautions and programs in connection with the work.

47 (13) Building Official: The Building Official charged with the responsibility of issuing

1 building permit, must be in possession of a signed/sealed set of plans and specifications.

2 **§32117. Expirations and Renewals.** (a) Certificates of registration and certificates of
3 authorization for corporations, partnerships, proprietorships and associations shall expire on the last
4 day of the month of September of each year, following their year of issuance and become invalid
5 after that date unless renewed by submission of appropriate forms as prescribed by the Board.

6 (1) Renewals of Certificates of Authorization for corporations, partnerships,
7 proprietorships and associations shall submit a clearance form from the Department of
8 Revenue and Taxation that they are current on their taxes with the Government of Guam, or
9 have an agreement with Department of Revenue and Taxation for their back taxes. Such
10 clearance shall be submitted with their renewal application form.

11 (2) ~~[Such]~~ Expired Certificates of Registration ~~[License]~~ may be renewed at any time
12 within ~~[six (6) months]~~ sixty (60) days following the expiration date without submission of
13 “Application for Reinstatement” upon payment of the renewal fee plus penalty fee as
14 prescribed by the Board. ~~[Upon failure to]~~ Any individual registrant who fails to renew
15 within ~~six (6) months~~ (60) sixty days after the date of expiration, ~~[the licensee]~~ shall be
16 required to apply for a reinstatement of registration, pay the prescribed (back registration and
17 penalty) fees as prescribed by the Board. ~~[and in circumstances submit an application for~~
18 ~~‘Reinstatement of Registration’ form.]~~

19 (3) Certificates of Authorization may be renewed anytime prior to the expiration date. A
20 Certificate of Authorization is considered null and void if not renewed before the expiration
21 date.

22 (b) It shall be the duty of the Secretary/Treasurer of the Board to notify every person
23 registered under this [Aet] Chapter, and every corporation, partnership, proprietorship and
24 association holding a certificate of authorization under this [Aet] Chapter, of the date of the
25 expiration of said certificate of registration or certificate of authorization, and the amount of the fee
26 required for its renewal. Such notice shall be mailed to the registrant or corporation, partnership,
27 proprietorship or association at his/her or its last known address at least one (1) month in advance of
28 the date of the expiration of said certificate. Renewal may be effected at any time prior to or during
29 the month of September by payment of a fee as established by the Board. [Renewal of an expired
30 certificate may be effected under rules prescribed by the by-laws.]

31 (c) A certificate of registration shall expire upon the death of a registrant.

32 **§32118. Replacement of Certificates.** (a) Replacement of Certificates. A new certificate
33 of registration, to replace any certificate lost, destroyed, or mutilated, may be issued subject to the
34 rules of the Board and upon payment of the prescribed fee and such certificate shall be stamped or
35 marked “duplicate”.

36 (b) Re-issuance of Certificates. The Board for reasons it deems sufficient may reissue a
37 certificate of registration to any person whose certificate has been revoked providing four (4) or
38 more members of the Board vote in favor of such re-issuance.

39 **§32119. Public Works.** Government employees shall not engage in the practice of
40 engineering, architecture, or land surveying involving either public or private property without the
41 project being under the direct charge and supervision of a registered engineer, architect or land
42 surveyor as provided by this [Aet] Chapter.

43 **§32120. Disciplinary Action -- Revocation, Suspension, Refusal to Issue, Restore, or**
44 **Renew, Probation, Fine and/or Reprimand.** [Powers] (a) The publication of the rules of conduct
45 for professional engineers, architects and land surveyors as provided for in §32109 or this [Title]
46 Chapter shall constitute due notice to all registrants.

47 (b) The Board shall have the power, duty and authority to suspend, refuse to renew or revoke a

1 certificate of registration, or a certificate of authorization or to reprimand, fine or any combination
2 thereof, or levy a civil penalty in an amount determined by the Board or not ~~[less]~~ more than Five
3 Thousand Dollars (\$5,000) for each offense against any engineer, architect, land surveyor or any
4 individual and/or business firm who is found guilty of:

- 5 (1) the practice of any fraud or deceit in obtaining or attempting to obtain or renew a
6 certificate of registration or certificate of authorization;
- 7 (2) any gross negligence, incompetency, or misconduct, in the practice of his profession,
8 engineering, architecture or land surveying;
- 9 (3) conviction of or entry of a plea of guilty or nolo contendere to any crime which is a
10 felony, whether related to practice or not; and conviction of or entry of a plea of guilty to
11 any crime, whether a felony, misdemeanor, or otherwise, an essential element of which is
12 dishonesty or which is directly related to the practice of engineering, architecture or
13 surveying;
- 14 (4) any felony or any crime involving moral turpitude, in which case a certified copy of the
15 record of conviction shall be conclusive evidence thereof;
- 16 (5) failure to comply with any of the provisions of this Chapter or violation of any of the
17 rules or regulations pertaining thereto ~~[of professional conduct adopted and promulgated~~
18 by the Board];
- 19 (6) discipline by another jurisdiction, territory, the District of Columbia, foreign country, the
20 United States government, or any governmental agency, if at least one of the grounds for
21 discipline is the same or substantially equivalent to those contained in this section.
22 ~~[violation of any provision of this Title];~~
- 23 (7) failure to provide information requested by the Board as a result of a formal or informal
24 complaint to the Board which would indicate a violation of this Chapter;
- 25 (8) knowingly making false statements or signing false statements, certifications, or
26 affidavits to include payment;
- 27 ~~(6)~~(9) aiding ~~[and]~~ or assisting ~~[abetting]~~ another person in violating any provision of this
28 Chapter or the rules or regulations pertaining thereto ~~[in the practice of professional~~
29 engineering, architecture, or land surveying any person not duly authorized to practice
30 engineering, architecture, or land surveying under the provisions of this Title];
- 31 ~~(7)~~(10) violating any terms of probation imposed by the Board or using a seal, or practicing
32 engineering, architecture or land surveying while the registrants license is suspended,
33 revoked, non-renewed;
- 34 (11) signing, affixing or permitting his seals to be affixed to any specifications, reports,
35 drawings, plans, plats design information, construction documents or calculations, surveys,
36 or revisions thereof which have not ~~[specifications, or drawings that were not]~~ been prepared
37 by the licensee ~~him~~ or under the licensee's ~~[responsibility or direct his personal supervision,~~
38 by his employee or subordinate] responsible control;
- 39 (12) ~~[failure to provide information requested by the Board as a result of a formal or~~
40 informal complaint to the Board which would indicate a violation of this Act;
- 41 ~~(9)~~(13) engaging in dishonorable, unethical, or unprofessional conduct of a character
42 likely to deceive, defraud, or harm the public;
- 43 (13) providing false testimony or information to the Board;
- 44 (14) ~~[convictions for]~~ habitual intoxication or addiction to the use of drugs or alcohol so
45 as to endanger health, safety and interest of the public by impairing skill and care in
46 professional services; or
- 47 ~~(10)~~(15) providing engineering, architectural or surveying services outside of the licensee's

1 areas of competence. Licensees must demonstrate by education or experience that they are
2 competent to practice in the subject field in question. ~~practicing or offering to practice~~
3 engineering, architecture or land surveying without a current license from this Board.

4 (c) A record ~~[or]~~ of conviction of any of the offenses provided in paragraph (b)(1) through
5 (b)~~(10)~~(16) above shall be conclusive evidence thereof.

6 (d) In addition to any other penalty provided in this Section, ~~[T]~~the Board shall have the power
7 to: revoke, suspend, place on probation, fine and/or reprimand, or refuse to issue, restore or renew,
8 the certificate of authorization of any firm where one or more of its officers, directors, partners,
9 members, or managers have been found guilty of any conduct which would constitute a violation
10 under the provisions of this Section.

11 (1) revoke a certificate of authorization, or

12 (2) to suspend a certificate of authorization for a period of time not exceeding two (2) years
13 of any corporation, partnership or association where one or more of his officers or
14 principals have been found guilty under this Section, or

15 (3) assess fines against the firm.

16 (e) ~~[Each day of continued violation may constitute a separate offense.]~~ In addition to or in lieu
17 of any other penalty provided in this Section, any licensee who violates a provision of this
18 Chapter, or any rule or regulation pertaining thereto, a civil penalty in an amount determined
19 by the Board or not more than \$5,000 for each offense.

20 (1) Each day of continued violation may constitute a separate offense.

21 (2) In determining the amount of civil penalty to be assessed pursuant to this Section, the
22 Board may consider such factors as the following:

23 (i) whether the amount imposed will be substantial economic deterrent to the
24 violation;

25 (ii) the circumstances leading to the violation;

26 (iii) the severity of the violation and the risk of harm to the public.

27 **§32121. Disciplinary Action Procedures.** (a) Any person may prefer charges of fraud,
28 deceit, gross negligence, incompetence, misconduct, or violation of the rules of professional
29 conduct, against any individual registrant, or against any corporation, partnership or association
30 holding a certificate of authorization. Such charges shall be in writing and shall be sworn to by the
31 person or persons making them and shall be filed with the Secretary/Treasurer of the Board.
32 ~~[Furthermore, notwithstanding Subsection (g) of this Section, t]The Board may summarily take~~
33 action without compliance with the Administrative Adjudication Law, to suspend ~~[or-revoke], or~~
34 deny a certificate of registration or authorization from any individual registrant, corporation,
35 partnership or association when it has received or obtained either a record of conviction or notice via
36 news media and/or radio that said registrant, corporation, partnership or association has been found
37 guilty of a crime.

38 (b) All charges, unless dismissed by the Board as unfounded or trivial, shall be heard by
39 the Board within three (3) months after the date on which the charges have been determined to have
40 merit by the Executive Board Administrator ~~[or Board Investigator]~~. At the Board's discretion, an
41 extension of time up to an additional three (3) months for the hearing may be granted upon the
42 request of either party. The hearing shall be conducted in accordance with the requirements of the
43 Administrative Adjudication Law.

44 (c) The time and place for said hearing shall be fixed by the Board, and a copy of the
45 charges, together with a notice of the time and place of hearing, shall be ~~[personally]~~ served on or
46 mailed to the ~~[last known address of such]~~ individual registrant, or corporation, partnership, or
47 association holding a certificate of authorization, or to his designated counsel in accordance with the

1 requirements of the Administrative Adjudication Law. [at least thirty (30) days before the date fixed
2 for the hearing.] At any hearing, the accused shall have the right to appear in person or by counsel,
3 or both, to cross-examine witnesses in his or its defense, and to produce evidence and witnesses in
4 his own defense. If the accused person fails or refuses to appear, the Board may proceed to hear and
5 determine the validity of the charges.

6 (d) If, after such hearing, a majority of the Board votes in favor of sustaining the
7 charges, the Board shall reprimand, suspend, refuse to renew, or revoke the certificate of registration
8 or certificate of authorization. ~~[The Board, for reasons it may deem sufficient, may reissue a~~
9 ~~certificate of registration to any person whose certificate has been revoked.]~~

10 (e) Any individual registrant having a certificate of registration, or corporation,
11 partnership or association holding a certificate of authorization, aggrieved by any action of the
12 Board in denying, suspending, refusing to renew or revoking his certificate of registration, or its
13 certificate of authorization, may appeal therefrom to the proper court under normal civil procedures.

14 (f) The Board may, upon petition of a formerly licensed individual registrant or
15 corporation, partnership or association [holding a certificate of authorization], reissue a certificate of
16 registration or authorization, provided that ~~[a majority of the members of the Board]~~ not less than
17 four (4) members of the seven (7) member Board, vote in favor of such issuance.

18 (g) No certificate of registration or authorization shall be suspended, revoked or denied
19 renewal by the Board, except after a hearing in accordance with the provisions of the Administrative
20 Adjudication Law.

21 **§32122. Violations and Penalties. (a) Civil Penalties for Non-Licensees:**

22 (1) In addition to any other provision of law, the Board may enter an order assessing a
23 civil penalty against any person, firm, partnership, or corporation found guilty by the Board
24 of:

25 (i) Engaging in the practice or offer to practice of engineering, architecture or
26 land surveying in this jurisdiction without being licensed in accordance with the
27 provisions of this Chapter;

28 (ii) Using or employing the words “engineer”, “engineering”, “architect”,
29 “architecture”, “surveyor”, “surveying”, or any modification or derivative thereof in its
30 name or form of business activity, except as authorized in this Chapter;

31 (iii) Presenting or attempting to use the certificate of licensure or the seal of
32 another licensed engineer, architect or land surveyor;

33 (iv) Giving false or forged evidence of any kind to the Board or any member
34 thereof in obtaining or attempting to obtain a certificate of licensure;

35 (v) Falsely impersonating any other licensed engineer, architect or land surveyor
36 of like or different name; or

37 (vi) Using or attempting to use an expired, suspended or revoked or non-existent
38 certificate of licensure or authorization;

39 (2) A civil penalty levied under this Section may not be less than \$5,000 for each
40 offense.

41 (3) Each day of continued violation may constitute a separate offense.

42 (4) In determining the amount of civil penalty to be assessed pursuant to this Section, the
43 Board may consider such factors as the following:

44 (i) Whether the amount imposed will be a substantial economic deterrent to the
45 violation;

46 (ii) The circumstances leading to the violation;

47 (iii) The severity of the violation and risk of harm to the public;

1 (iv) The economic benefits gained by the violator as a result of non-compliance; and
2 (v) The interest of the public.

3 (5) Before issuing an order under this Section, the Board shall provide the person written
4 notice and opportunity to request a hearing on the record, which need not be in accordance
5 with the provisions of the Administrative Adjudication Law.

6 (6) A person aggrieved by the levy of a civil penalty under this Section may file an
7 appeal with the Superior Court for judicial review of the penalty aforementioned.

8 (7) If a person fails to pay a civil penalty within thirty (30) days after the entry of an
9 order under Subsection (a)(1) of this Section, or if the order is stayed pending an appeal,
10 within ten (10) days after the court issues a final judgment in favor of the Board of an order
11 appealed in accordance with Subsection (a)(6) of this Section, the Board shall notify the
12 Attorney General. The Attorney General may commence a civil action to recover the
13 amount of the penalty, plus attorney's fees and costs.

14 (8) An action to enforce an order under this Section may be combined with an action of
15 an injunction.

16 (b) Criminal Offenses

17 (i) Any person who shall practice, or offer to practice, engineering, architecture
18 or land surveying on Guam without being registered in accordance with the provisions of
19 this [Title] Chapter, or any person, firm, partnership, organization, association, corporation
20 or other entity using or employing the words, 'Engineer' or 'Engineering', 'Architect' or
21 'Architecture', 'Land Surveyor' or 'Land Surveying' or any modification or derivative
22 thereof in its name or form of business or activity except as authorized in this [Title]
23 Chapter, or any person presenting or attempting to use the certificate of registration or the
24 seal of another, or any person who shall give any false or forged evidence of any kind to the
25 Board or to any member thereof if obtaining or attempting to obtain a certificate of
26 registration, or any person who shall falsely impersonate any other registrant of like or
27 different name, or any person who shall attempt to use an expired or revoked or non-existent
28 certificate of registration, or who shall practice or offer to practice when not qualified, or any
29 person who falsely claims that he is registered under this [Title] Chapter, or any person who
30 shall violate any of the provisions of this [Title] Chapter, shall be guilty of a petty
31 misdemeanor for the first offense and a third degree felony for the second or any subsequent
32 offenses.

33 ~~(b)~~(ii) It shall be the duty of all duly constituted officers of [the territory] Guam to enforce
34 the provisions of this [Title] Chapter and to prosecute any person violating same.

35 ~~(e)~~(iii) The Attorney General of Guam shall act as legal advisor to the Board and render
36 such legal assistance as may be necessary in carrying out the provisions of this [Act]
37 Chapter. The Board may employ independent counsel and necessary assistance to aid in the
38 enforcement of this [Title] Chapter and the compensation and expenses therefor shall be paid
39 from funds of the Board.

40 ~~(d)~~(iv) Any person who is not registered as a professional engineer, architect or land
41 surveyor under this [Title] Chapter and who, by written or verbal claim, sign, advertisement,
42 letterhead, card or in any other way represents himself to be a professional engineer, architect or
43 land surveyor or through the use of some other title implies that he is a professional engineer,
44 architect or land surveyor or that he is registered under this [Title] Chapter or holds himself out
45 as able to perform any engineering service or work or any other service designated by the
46 practitioner which is recognized as engineering, architecture or land surveying shall be guilty of
47 a petty misdemeanor.

1 **§32123. Certificate of Authorization [Certificates] (COA).** (a) The practice of or offer to
2 practice engineering, architecture or land surveying as defined in §32103 of this [Title] Chapter by
3 individual engineers, architects or land surveyors registered under this [Title] Chapter, or b[e]y
4 individuals lawfully practicing under §32124 of this [Title] Chapter through a corporation
5 (including professional corporations), partnership (including registered limited liability partnership),
6 or limited liability company is permitted, subject to the provisions of this [Title] Chapter.

7 A corporation, partnership, proprietorship or limited liability company holding itself out or
8 performing any of the services involved in the practice of engineering, architecture or land
9 surveying must ~~[be issued]~~ obtain a certificate of authorization ~~[by]~~ from the Board. The Board may
10 issue a Certificate of Authorization to such corporation, partnership, proprietorship or limited
11 liability company; provided that:

12 (i) one (1) or more of the directors of a corporation; one (1) or more of the general partners of a
13 partnership; the sole proprietor of a proprietorship; or one or more of the managers of a
14 limited liability company are registered under this [Title] Chapter or the engineering,
15 architecture or land surveying registration law of another jurisdiction within the United
16 States, District of Columbia or its Territories; and

17 (ii) ~~[further provided that]~~ any agreement to perform such services shall be executed on behalf of
18 the corporation, partnership, limited liability company by the director or directors, general
19 partner or partners, sole proprietor, or by the manager or managers who are registered on
20 Guam and who exercises responsible control over the particular services contracted for by
21 the corporation, partnership, proprietorship or limited liability company.

22 The requirements of this [Title] Chapter shall not prevent the employees of such corporations,
23 partnerships, proprietorships or limited liability companies from performing engineering,
24 architecture or land surveying services; provided that all technical submissions involving the
25 practice of engineering, architecture or land surveying as defined in this [Title] Chapter when
26 issued, or filed for public record, shall be dated, and bear the seal and signature of the professional
27 engineer, architect, or professional land surveyor under whose responsible control it was prepared.

28 (b) A corporation, partnership, proprietorship or limited liability company desiring a certificate
29 of authorization shall furnish the Board such information about its organization and activities as the
30 Board may require by regulation and to designate the individual or individuals duly registered to
31 practice engineering (by discipline), architecture or land surveying on Guam who shall be in
32 responsible control of the practice as the Responsible Managing Employee (RME).

33 (c) A multi-discipline firm who has more than one (1) designated RME shall be required to have
34 a minimum of one (1) RME available on a full time basis with 75% physical presence and who must
35 have full control over the particular services contracted for by the firm. In the event there shall be a
36 change in any of these persons during the year, such change shall be reported in the form as issued
37 by the Board within thirty (30) days after the effective date of said change.

38 If all of the requirements of this Section are met, the Board may issue a certificate of
39 authorization to such corporation, partnership, proprietorship or limited liability company
40 authorizing such organizations to contract for and to collect fees for furnishing engineering,
41 architecture or land surveying services. All off-island firms shall be required to maintain a local
42 office under the control of at least one (1) Responsible Managing Employee who shall be ~~[available~~
43 ~~on a full time basis with a seventy five (75%) physical presenee]~~ in full control of the operations of
44 the firm. The COA shall be displayed in a conspicuous place in such business.

45 No such corporation, partnership, proprietorship or limited liability company shall be relieved of
46 responsibility for the conduct or acts of its agents, employees or officers by reason of its compliance
47 with the provisions of this Section, nor shall any individual practicing engineering, architecture or

1 land surveying services performed by reason of his employment or relationship with such
2 corporation, partnership, proprietorship or association.

3 A certificate of incorporation shall not be issued to an applicant for a registration as a foreign
4 firm to a firm which includes among the objectives for which it is established any of the words
5 engineer', 'engineering', 'architect', 'architectural', 'surveyor', 'land surveying', or any
6 modification or derivation thereof, unless the Board has issued for the said applicant a certificate of
7 authorization or letter indicating the eligibility of such applicant to receive such a certificate. The
8 firm shall supply such certificate or letter from the Board with the applicant's application for
9 incorporation, ~~[or registration]~~ licensure or authorization.

10 (d) The responsible department within the government of Guam shall decline to register any
11 trade name or service mark which includes such words as set forth in Subsection ~~[(c)]~~ (c) of this
12 Section, or modification or derivatives thereof, in its firm name or logo type, except those firms
13 holding authorization certificate under the provisions of this Section.

14 (e) An engineer, architect or land surveyor who renders occasional part-time or consulting
15 engineering, architectural or land surveying services to or for a firm may not, for the purposes of
16 this Section, be designated as being responsible for the professional activities of the firm.

17 (f) This section shall not require a certificate of authorization for a firm performing engineering,
18 architecture or land surveying for the firm itself or a parent or subsidiary of said firm.

19 (g) The certificate of authorization shall be renewed as herein before provided in Section
20 §32117(a).

21 **§32124. Exclusive Jurisdiction of the Board -- Restriction on requirement for additional**
22 **licenses or fees.** No local jurisdiction shall have the authority to require additional licensure or to
23 require payment of any fees in order for any professional engineer, architect or land surveyor to
24 engage in the practice of the profession for which the Board has issued a license.

25 **§32125. Contract Law Language.** (a) A Professional Engineer, Architect or Land Surveyor
26 shall use a written contract when contracting to provide professional engineering, architecture, land
27 surveying or construction management services to a client pursuant to this Chapter. The written
28 contract shall be executed by the professional engineer, architect or land surveyor and the client, or
29 his representative, prior to the professional engineer, architect or land surveyor commencing work,
30 unless the client knowingly states in writing that work may commence before the contract is
31 executed. The written contract shall include, but not limited to, all of the following:

32 (1) A description of the services to be provided to the client by the professional engineer,
33 architect or land surveyor.

34 (2) A description of any basis of compensation applicable to the contract, and the method of
35 payment agreed upon by the parties.

36 (3) The name, address, and license or certificate number of the professional engineer,
37 architect or land surveyor, and the name and address of the client.

38 (4) A description of the procedure that the professional engineer, architect or land surveyor
39 and the client will use to accommodate additional services.

40 (b) This section shall not apply to any of the following:

41 (1) Professional engineering, architectural or land surveying services rendered by a
42 professional engineer, architect or land surveyor for which the client will not pay
43 compensation.

44 (2) A professional engineer, architect or land surveyor who has a current or prior contractual
45 relationship with the client to provide engineering, architectural or land surveying services,
46 and that client has paid the professional engineer, architect or land surveyor all of the fees
47 that are due under the contract.

1 (3) If the client knowingly states in writing after full disclosure of this section that a contract
2 which complies with the requirements of this section is not required.

3 (c) “Written Contract” as used in this Section includes a contract that is in electronic form.

4 **§3212[4]6. Exemption Clause.** This [~~Aet~~] Chapter shall not be construed to prevent the practice
5 by:

6 (a) **Temporary Permits.**

7 (1) Professional Engineer/Architect — The practice or offer to practice engineering or
8 architecture by a person not a resident of or having no established place of business on Guam,
9 provided such person is legally qualified by registration to practice engineering or architecture
10 as defined in §32103 of this Title, in his own state or territory and, in the case of a person
11 seeking to practice architecture, who has a current certificate of registration issued by the
12 National Council of Architectural Registration Boards. Such person shall make application to
13 the Board in writing and after payment of a fee as prescribed in the by-laws may be granted
14 written permit for a definite period of time not to exceed one (1) year to do a specific job,
15 provided, however, that no right to practice engineering or architecture shall accrue to such
16 applicant with respect to any other work not set forth in said permit.

17 For Civil Engineers only: The applicant must have passed the CSCS examination.

18 (2) Land Surveyor. The practice of land surveying under a temporary permit by a person
19 registered as a land surveyor in another state is not considered to be in the best interest of the
20 public and therefore shall not be granted.

21 (b) Employees and Subordinates. [~~T~~]the work of an employee or a subordinate of a person
22 holding a certificate of registration under this [~~Title~~] Chapter, or an employee of a person
23 practicing lawfully under Subsection (a) of this Section; provided such work does not include
24 final engineering, architecture or land surveying designs or decisions and is done under the
25 direct supervision of and verified by a person holding certificate of registration under this ~~Title~~
26 Chapter or a person practicing lawfully under Subsection (a) of this Section.

27 (c) Practice of Construction Management. Any service or work, the adequate performance of
28 which involves professional construction inspection or observation, certifications, shop drawing
29 review and approval, engineering calculations, revising construction details, construction
30 interpretation, etc. as defined in §32103 of this [~~Title~~] Chapter.

31 (d) an employee, agent or officer of any agency, department, autonomous agency or public
32 corporation of the government of Guam who are reviewing drawings and specifications for
33 compliance with building codes, regulations or standards of the said entity if the drawings and
34 specifications have been signed and sealed by a professional architect or professional engineer or
35 the preparation of the drawings. In this paragraph, “codes” includes codes relating to
36 building, mechanical, plumbing, electrical, utility, and fire standards;

37 (e) any officer, agent or employee of an agency, department, autonomous agency or public
38 corporation of the government of Guam engaged in the practice of locating, plotting or mapping
39 the location of government facilities by whatever means aside from the identification of
40 boundaries;

41 (f) any officer or employee of an agency, department, autonomous agency or public corporation
42 of the government of Guam building trades crafts, earthwork, grounds keeping, or nursery
43 operations, and superintendents, supervisors, or inspectors in the performance of their
44 customary duties;

45 (g) a contractor performing work designed by a professional architect, engineer, or landscape
46 architect or the supervision of the construction of the work as a supervisor or superintendent for
47 a contractor who is acting on behalf of an agency, department, autonomous agency or public

1 corporation of the government of Guam.

2 **§3212[5]7. Duties of Recordors.** It shall be unlawful for the recorder of deeds or the civil
3 registrar of titles to file or record any map, plat, survey or other documents within the definition of
4 land surveying which do not have impressed thereon and affixed thereto the personal signature and
5 seal of the [~~registered~~] professional land surveyor by whom or under whose direct supervision the
6 map, plat, survey or other documents were prepared.

7 **§3212[6]8. Invalid Sections.** If any of the provisions of this [~~Aet~~] Chapter, or if any rule,
8 regulation or order thereunder, or if the application of such provision to any person or circumstance
9 shall be held invalid, the remainder of this [~~Aet~~] Chapter and the application of such provision of
10 this [~~Aet~~] Chapter or such rule, regulation or order to persons or circumstances, other than those as
11 to which it is held invalid, shall not be affected thereby.

12 **§3212[7]9. Effective Date.** This law shall take effect thirty (30) days from the date of passage.”



Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs
30th Guam Legislature • I Mina' Trenta Na Liheslaturan Guåhan

AGENDA

COMMITTEE ON UTILITIES, TRANSPORTATION, PUBLIC WORKS, AND VETERANS AFFAIRS

Public Hearing
March 6, 2009, 9:00 a.m.
Public Hearing Room

The following Confirmations and Bills will be heard by the Committee on Utilities, Transportation, Public Works, and Veterans Affairs;

9:00 – 9:30 am

Confirmation of Appointment- Mr. Christopher Calvo Camacho
Appointment to the Guam Contractors License Board

Confirmation of Appointment- Mr. Richard P. Quiambao
Appointment to the Guam Contractors License Board

10:00 -12:00 pm

Bill No. 24 (LS) - J.V. Espaldon
An act to repeal and re-enact Chapter 70 of Title 21, Guam Code Annotated, relative to the Guam Contractors Licensing Board.

Bill No. 22 (LS) - J.V. Espaldon
An act to repeal and re-enact Chapter 67 of Title 21 Guam Code Annotated, relative to adopting the International Building Code as the Building Code of Guam.

12:00 – 1:30 pm LUNCH

1:30 – 5:00 pm

Bill No. 25 (LS) – J.V. Espaldon
An act to repeal and re-enact chapter 32 of title 22, Guam Code Annotated, relative to the professional engineers, architects and land surveyors (PEALS) Law.

Bill No. 52 (COR) - J.T. Won Pat, Ed.D.
An act to amend Section 58A105, Chapter 58A, of Title 5 Guam Code Annotated relative to the construction of the John F. Kennedy High School.



Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs
30th Guam Legislature • *I Mina' Trenta Na Liheslaturan Guahan*

February 26, 2009
MEMORANDUM

To: All Senators
From: Senator Thomas C. Ada,
Chairperson, Committee on Utilities, Transportation, Public Works and Veterans Affairs
Subject: **Public Hearing Notice: March 6, 2009 at 9:00am**
Agenda: Confirmation hearing and Bills 22, 24, 25 and 52.

Please be advised that the Committee on Utilities, Transportation, Public Works and Veterans Affairs is holding a public hearing on March 6, 2009 at 9:00am. This meeting will take place in the Public Hearing Room of *I Liheslatura*.

On the agenda:
9:00 – 9:30 am

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Appointment to the Guam Contractors License Board

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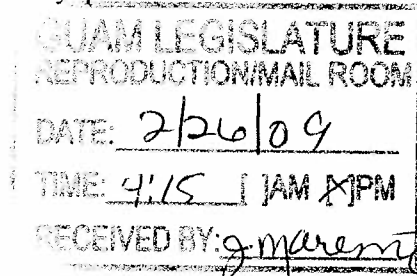
An act to amend Section 58A105, Chapter 58A, of Title 5 Guam Code Annotated relative to the construction of the John F. Kennedy High School.

Copies of these agenda items may be found on the official Guam Legislature website (www.guamlegislature.com). Please feel free to contact our office should you have any questions or concerns.

Si Yu'os Ma'ase,

Thomas C. Ada

cc: Clerk of the Legislature
Sergeant of Arm and Protocol





Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs
30th Guam Legislature • *I Mina' Trenta Na Liheslaturan Guåhan*

February 26, 2009

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Chairperson, Committee on Utilities, Transportation, Public Works and Veterans Affairs

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Please note that this is a tentative schedule and changes may be made to accommodate the public testimonies. Copies of these agenda items may be found on the official Guam Legislature website (www.guamlegislature.com). Please feel free to contact Senator Thomas C. Ada with any questions or concerns.

Si Yu'os Ma'ase,

Thomas C. Ada

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The 30th Guam Legislature

155 Hesler Place
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Office (671) 473-3301 • Fax (671) 473-3303

Senator Thomas C. Ada

Facsimile

Date: February 26, 2009 **Time:**
Fax No.: **No. of Pages:** 2
To: All Media
From: The Office of Senator Thomas C. Ada
Re: Public Hearing Notice Agenda for Friday, March 6, 2009
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Government Public Hearing Notice

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Dear Editors,

We would like to reserve space in the government meeting notice section of the Pacific Daily News for a Public Hearing Notice to be conducted on March 6, 2009. The following notice should be read as:

"Committee on Utilities, Transportation, Public Works and Veterans Affairs: Public Hearing, 9:00 am, Friday, March 6, 2009, Public Hearing Room, Temporary Legislative Building, Hagatña, Guam. The following confirmations and bills will be heard;

9:00 – 9:30 am

Confirmation of Appointment- Mr. Christopher Calvo Camacho

Appointment to the Guam Contractors License Board

Confirmation of Appointment- Mr. Richard P. Quiambao

Appointment to the Guam Contractors License Board

10:00 -12:00 pm

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An act to repeal and re-enact Chapter 67 of Title 21 Guam Code Annotated, relative to adopting the International Building Code as the Building Code of Guam.

1:30 – 5:00 pm

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1ST NOTICE:



Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs
30th Guam Legislature • *I Mina' Trenta Na Liheslaturan Guahan*

March 3, 2009
MEMORANDUM

To: All Senators
From: Senator Thomas C. Ada,
Chairperson, Committee on Utilities, Transportation, Public Works and Veterans Affairs
Subject: **Public Hearing Notice: March 6, 2009 at 8:30am**
Agenda: Confirmation hearing and Bills 22, 24, 25 and 52.

2009 MAR -3 AM 8:16

Please be advised that the Committee on Utilities, Transportation, Public Works and Veterans Affairs is holding a public hearing on March 6, 2009 at 8:30am. This meeting will take place in the Public Hearing Room of *I Liheslatura*.

On the agenda:

8:30 – 10:00 am

Bill No. 52 (COR) - J.T. Won Pat, Ed.D.

An act to amend Section 58A105, Chapter 58A, of Title 5 Guam Code Annotated relative to the construction of the John F. Kennedy High School.

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1:30 – 5:00 pm

Bill No. 25 (LS) – J.V. Espaldon

An act to repeal and re-enact chapter 32 of title 22, Guam Code Annotated, relative to the professional engineers, architects and land surveyors (PEALS) Law.

Copies of these agenda items may be found on the official Guam Legislature website (www.guamlegislature.com). Please feel free to contact our office should you have any questions or concerns.

Si Yu'os Ma'ase,

Thomas C. Ada

cc: Clerk of the Legislature
Sergeant of Arms and Protocol



Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs
30th Guam Legislature • *I Mina' Trenta Na Liheslaturan Guahan*

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Si Yu'os Ma'ase,

Thomas C. Ada

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The 30th Guam Legislature

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Office (671) 473-3301 • Fax (671) 473-3303

Senator Thomas C. Ada

Facsimile

Date: March 3, 2009 **Time:**
Fax No.: **No. of Pages:** 2
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We would like to reserve space in the government meeting notice section of the Pacific Daily News for a Public Hearing Notice to be conducted on March 6, 2009. The following notice should read as:

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*Committee on Utilities, Transportation, Public Works and Veterans Affairs: Public Hearing, 8:30 am, Friday, March 6, 2009, Public Hearing Room, Temporary Legislative Building, Hagatna, Guam. The following confirmations and bills will be heard;

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8:30 – 10:00 am

Bill No. 52 (COR) - J.T. Won Pat, Ed.D.

An act to amend Section 58A105, Chapter 58A, of Title 5 Guam Code Annotated relative to the construction of the John F. Kennedy High School.

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Confirmation of Appointment- Mr. Christopher Calvo Camacho

Appointment to the Guam Contractors License Board

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Confirmation of Appointment- Mr. Richard P. Quiambao

Appointment to the Guam Contractors License Board

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10:00 -12:00 pm

Bill No. 24 (LS) - J.V. Espaldon

An act to repeal and re-enact Chapter 70 of Title 21, Guam Code Annotated, relative to the Guam Contractors Licensing Board.

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PDN REQUEST FOR GOV'T MEETING NOTICE
2ND NOTICE



Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs
30th Guam Legislature • *I Mina' Trenta Na Liheslaturan Guahan*

PUBLIC HEARING NOTICE

March 6, 2009 at 8:30am

Public Hearing Room, *I Liheslaturan Guahan*

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8:30 – 10:00 am

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Bill No. 25 (LS) – J.V. Espaldon

An act to repeal and re-enact chapter 32 of title 22, Guam Code Annotated, relative to the professional engineers, architects and land surveyors (PEALS) Law.

The Committee will continue to accept written or electronic testimonies until 5pm, March 16, 2009; please address these testimonies to Senator Thomas C. Ada, Chairperson, Committee on Utilities, Transportation, Public Works, and Veterans Affairs. Your participation is appreciated.

Copies of these agenda items may be found on the official Guam Legislature website (www.guamlegislature.com). Additionally, and in accordance with the Open Government Law, notice of this public hearing was distributed to all local media via fax on February 26, 2009 and March 3, 2009. Please feel free to contact the Office of Senator Thomas C. Ada with any questions or concerns.

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Senator Thomas C. Ada

Facsimile

Date: February 26, 2009 **Time:**
Fax No.: 649-5383 **No. of Pages:** 2
To: PEALS Board
CC: Paul Santos, Chairman
From: The Office of Senator Thomas C. Ada
Re: Public Hearing Notice Agenda for Friday, March 6, 2009

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Senator Thomas C. Ada

Facsimile

Date: March 3, 2009 **Time:**
Fax No.: 649-5383 **No. of Pages:** 2
To: PEALS Board
CC: Paul Santos, Chairman
From: The Office of Senator Thomas C. Ada
Re: **Public Hearing Notice Agenda for Friday, March 6, 2009**

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The 30th Guam Legislature

155 Hesler Place
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Office (671) 473-3301 • Fax (671) 473-3303

Senator Thomas C. Ada

Facsimile

Date: Febbruary 26, 2009 **Time:**
Fax No.: 649-6178 **No. of Pages:** 2
To: Mr. Larry Perez, Director of DPW
From: The Office of Senator Thomas C. Ada
Re: Public Hearing Notice Agenda for Friday, March 6, 2009

Note:

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1	1078	6496178	2-26;11:09AM	20s	2/ 2	SG3		CP

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G3 ID: 6714733303 Date/Time: 03/03/2009: 11:39AM
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Senator Thomas C. Ada

Facsimile

Date: March 3, 2009 Time:
Fax No.: 649-6178 No. of Pages: 2
To: Mr. Larry Perez, Director of DPW
From: The Office of Senator Thomas C. Ada
Re: **Public Hearing Notice Agenda for Friday, March 6, 2009**

Note:

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1	1193	6496178	3- 3:11:39AM	20s	2 / 2	SG3		CP

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G3 ID: 6714733303 Date/Time: 02/26/2009; 03:43PM
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Senator Thomas C. Ada

Facsimile

Date: February 26, 2009 **Time:**
Fax No.: 472-3381 **No. of Pages:** 2
To: TRM Architects
CC: Mark Ruth, Vince Sablan
From: The Office of Senator Thomas C. Ada
Re: Public Hearing Notice Agenda for Friday, March 6, 2009
Note:

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No.	Doc.	Remote Station	Start Time	Duration	Pages	Mode	Contents	Status
1	1102	4758797	2-26; 3:42PM	26s	2 / 2	SG3		CP

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Date/Time: 03/03/2009; 11:41AM

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Senator Thomas C. Ada

Facsimile

Date: March 3, 2009 **Time:**
Fax No.: 472-3381 **No. of Pages:** 2
To: TRM Architects
CC: Mark Ruth, Vince Sablan
From: The Office of Senator Thomas C. Ada
Re: **Public Hearing Notice Agenda for Friday, March 6, 2009**

Note:

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No.	Doc.	Remote Station	Start Time	Duration	Pages	Mode	Contents	Status
1	1195	671 472 3381	3- 3;11:41AM	24s	2 / 2	SG3		CP

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G3 ID: 6714733303 Date/Time: 02/26/2009; 11:11AM
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Senator Thomas C. Ada

Facsimile

Date: February 26, 2009 **Time:**
Fax No.: 647-0886 **No. of Pages:** 2
To: TG Engineers
CC: David Eton
From: The Office of Senator Thomas C. Ada
Re: **Public Hearing Notice Agenda for Friday, March 6, 2009**
Note:

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No.	Doc.	Remote Station	Start Time	Duration	Pages	Mode	Contents	Status
1	1078	TG. ENGINEERS	2-26; 11:11AM	2fs	2 / 2	SG3		CP

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Senator Thomas C. Ada

Facsimile

Date: March 3, 2009 **Time:**
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To: TG Engineers
CC: David Eron
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No.	Doc.	Remote Station	Start Time	Duration	Pages	Mode	Contents	Status
1	1185	TG. ENGINEERS	3- 3:11:27AM	21s	2/ 2	SG3		CP

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G3 ID: 6714733303 Date/Time: 02/26/2009; 11:14AM
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Senator Thomas C. Ada

Facsimile

Date: February 26, 2009 **Time:**
Fax No.: 477-3456 **No. of Pages:** 2
To: GK2
CC: Mr. Dean Gillham
From: The Office of Senator Thomas C. Ada
Re: **Public Hearing Notice Agenda for Friday, March 6, 2009**

Note:

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No.	Doc.	Remote Station	Start Time	Duration	Pages	Mode	Contents	Status
1	1079	6714773456	2-26;11:11AM	1m56s	2 / 2	ECM		CP

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RE: Resend MB: Send to Mailbox BC: Broadcast MP: Multi Polling RV: Remote Service
PG: Polling RB: Relay Broadcast RS: Relay Send BF: Box Fax Forward CP: Completed
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G3 ID: 6714733303 Date/Time: 03/03/2009: 11:16AM
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Senator Thomas C. Ada

Facsimile

Date: March 3, 2009 **Time:**
Fax No.: 477-3456 **No. of Pages:** 2
To: GK2
CC: Mr. Dean Gillham
From: The Office of Senator Thomas C. Ada
Re: Public Hearing Notice Agenda for Friday, March 6, 2009
Note:

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No.	Doc.	Remote Station	Start Time	Duration	Pages	Mode	Contents	Status
1	1178	6714773456	3- 3:11:10AM	33s	2	SG3		AS
2	1178	6714773456	11:12AM	35s	2	SG3	RE	AS
3	1178	6714773456	11:14AM	35s	2	SG3	RE	AS
4	1178	6714773456	11:15AM	23s	2	SG3	RE	CP

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Senator Thomas C. Ada

Facsimile

Date: February 26, 2009 **Time:**
Fax No.: 649-2210 **No. of Pages:** 2
To: Guam Contractors License Board
CC: Richard Qulambao; Christopher Camacho; Thomas Morrison;
From: The Office of Senator Thomas C. Ada
Re: **Public Hearing Notice Agenda for Friday, March 6, 2009**

Note:

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No.	Doc.	Remote Station	Start Time	Duration	Pages	Mode	Contents	Status
1	1072	671	2-26:11:05AM	24s	2	2	SG3	CP

Note:
RE: Resend MB: send to Mailbox BC: Broadcast MP: Multi Polling RV: Remote Service
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G3 ID: 6714733303 Date/Time: 03/03/2009 11:12AM
Page: 1 (Last Page)

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Senator Thomas C. Ada

Facsimile

Date: March 3, 2009 **Time:**
Fax No.: 649-2210 **No. of Pages:** 2
To: Guam Contractors License Board
CC: Richard Quiambao; Christopher Camacho; Thomas Morrison;
From: The Office of Senator Thomas C. Ada
Re: Public Hearing Notice Agenda for Friday, March 6, 2009

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No.	Doc.	Remote Station	Start Time	Duration	Pages	Mode	Contents	Status
1	1180	671	3- 3:11:11AM	24s	2	2 SG3		CP

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Date/Time: 02/26/2009; 11:07AM
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Senator Thomas C. Ada

Facsimile

Date: February 26, 2009 **Time:**
Fax No.: 647-4866 **No. of Pages:** 2
To: Guam Contractors Association
CC: James Martinez, President
From: The Office of Senator Thomas C. Ada
Re: **Public Hearing Notice Agenda for Friday, March 6, 2009**

Note:

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No.	Doc.	Remote Station	Start Time	Duration	Pages	Mode	Contents	Status
1	1073	6474866	2-26; 11:06AM	1m03s	2 / 2	ECM		CP

Note:
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G3 ID: 6714733303 Date/Time: 03/03/2009: 12:14PM
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Senator Thomas C. Ada

Facsimile

Date: March 3, 2009 **Time:**
Fax No.: 647-4866 **No. of Pages:** 2
To: Guam Contractors Association
CC: James Martinez, President
From: The Office of Senator Thomas C. Ada
Re: **Public Hearing Notice Agenda for Friday, March 6, 2009**

Note:

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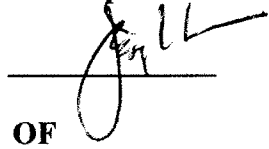
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**I MINA 'TRENTA NA LIHESLATURAN GUÅHAN
2009 (First) REGULAR SESSION**

2009 JAN -5 AM 11:00

Bill No. 25 (LS)

Introduced by:

J.V. Espaldan


**AN ACT TO REPEAL AND RE-ENACT CHAPTER 32 OF
TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO THE
PROFESSIONAL ENGINEERS, ARCHITECTS AND LAND
SURVEYORS (PEALS) LAW.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Chapter 32 of Division 3, Title 22, Guam Code Annotated is repealed and re-enacted to read:

**“CHAPTER 32
THE PROFESSIONAL ENGINEERS, ARCHITECTS
AND LAND SURVEYORS LAW (PEALS)**

§32101. NAME. This ~~[title]~~ Chapter may be cited as the *Professional Engineers, Architects and Land Surveyors Law*.

§32102. GENERAL PROVISIONS. In order to safeguard life, health, and property, and to promote the public welfare, the practice of engineering, architecture and land surveying in Guam is hereby declared to be subject to regulation in the public interest. It shall be unlawful for any person to practice, or to offer to practice, engineering, architecture or land surveying in Guam as defined in the provisions of this ~~[Title]~~ Chapter, or to use in connection with his name or otherwise assume, or advertise any title or description tending to convey the impression that he is an engineer, an architect or land surveyor, unless such person has been duly registered or exempted under the provisions of this ~~[Title]~~ Chapter. The practice of engineering, architecture and land surveying shall be deemed a privilege granted by the territory through the Guam Board of Registration for Professional Engineers, Architects and Land Surveyors, based on the qualifications of the individual as evidenced by his certificate of registration which shall not be transferable.

§32103. DEFINITIONS.

(a) Engineer.

- (1) Engineer — The term *Engineer*, within the intent of this ~~[Act]~~ Chapter shall mean a person who, by reason of his special knowledge and use of the mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, is qualified to practice engineering.
- (2) Professional Engineer — The term *Professional Engineer*, as used in this ~~[Act]~~ Chapter, shall mean a person who ~~[has been]~~ is duly registered and licensed by the Guam Board of Registration for Professional Engineers, Architects and Land Surveyors as a Professional Engineer.
- (3) Professional Engineer, Emeritus — The term *Professional Engineer, Emeritus* as used in this Chapter, shall mean a person who is a *Professional Engineer, Retired*, and who is sixty five (65) years of age; and has been a resident of Guam for at least five (5) years; and has had no disciplinary action against him; and who applies to and

1 is approved by the Board to be granted the use of the honorific title, *Professional*
2 *Engineer, Emeritus*.

- 3 (4) Professional Engineer, Retired ---- The term *Professional Engineer, Retired* as used
4 in this Chapter, shall mean a person who has been duly licensed as a professional
5 engineer by the Board and who chooses to relinquish or not to renew a license and
6 who applies to and is approved by the Board to be granted the use of the honorific
7 title, *Professional Engineer, Retired*.

8 ~~{(3)}~~**(5)** Engineer Intern — The term *Engineer Intern*, as used in this [Aet] Chapter, shall
9 mean a person who complies with the requirements for education, experience and character,
10 and has passed an examination in the fundamental engineering subjects, as provided in
11 §32113 and §32115 of this [Aet] Chapter.

12 ~~{(4)}~~ **(6)** Practice of Engineering — The term *Practice of Engineering*, as used in this
13 [Title] Chapter, means any service or creative work, the adequate performance of which
14 requires engineering education, training, and experience in the application of special
15 knowledge of the mathematical, physical, and engineering sciences to such services or
16 creative work as consultation, investigation, expert technical testimony, evaluation,
17 planning, design, ~~[construction management of engineering works and systems, planning the~~
18 ~~use of land and waters, engineering teaching of advanced engineering subjects or courses~~
19 ~~related thereto, engineering surveys, and the inspection of construction for the purpose of~~
20 ~~assuring compliance with drawings and specifications; any of which embraces such services~~
21 ~~or work either public or private, in connection with any utilities, structures, buildings,~~
22 ~~machines equipment, processes, work systems, or project and including such architectural~~
23 ~~work as may be incidental to the practice of engineering, industrial or consumer products or~~
24 ~~equipment of a control systems, communications, mechanical, electrical, hydraulic,~~
25 ~~pneumatic or thermal nature, insofar as they involve safeguarding life, health or property,~~
26 ~~and including such other professional services as may be necessary to the planning, progress~~
27 ~~and completion of any engineering services.] and design coordination of engineering works
28 and systems, planning the use of land, air and water, teaching of advanced engineering
29 subjects, performing engineering studies and the review and/or management of construction
30 for the purpose of monitoring and/or ensuring compliance with drawings and specifications;
31 any of which embraces such services of work, either public or private, in connection with
32 any utilities, structures, buildings, machines, equipment, processes, work systems, projects,
33 communication systems, transportation systems, and industrial or consumer products, or
34 equipment of a control systems, communications, mechanical, electrical, hydraulic,
35 pneumatic, chemical, environmental or thermal nature, insofar as they involve safeguarding
36 life, health, or property, and including such other professional services as may be necessary
37 to the planning, progress, and completion of any engineering services.~~

38 Design coordination includes the review and coordination of those technical submissions
39 prepared by others, including as appropriate and without limitation, consulting engineers,
40 architects, landscape architects, surveyors, and other professionals working under the
41 direction of the engineer.

42 A person shall be construed to practice or offer to practice engineering, within the
43 meaning and intent of this Chapter, who practices any branch of the profession of
44 engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other
45 way represents themselves to be a professional engineer, or through the use of some other
46 title implies that they are a professional engineer or that they are licensed under this Chapter;
47 or who hold themselves out as able to perform, or who does perform any engineering service

1 or work or any other service designated by the practitioner which is recognized as
2 engineering.

3 ~~(5)~~(7) Consulting Engineer — The term *Consulting Engineer*, as used in this [Title]
4 Chapter, means a professional engineer whose principal occupation is the independent
5 practice of engineering; whose livelihood is obtained by offering engineering services to the
6 public; who services clients as an independent fiduciary; who is devoid of public,
7 commercial and product affiliation that might tend to infer a conflict of interest; and who is
8 cognizant of his public and legal responsibilities, and is capable of discharging them.

9 (b) Architect.

10 (1) Architect — The term *Architect*, as used in this [Aet] Chapter, shall mean a person,
11 who by reason of his knowledge of the mathematical, and physical sciences, and the
12 principles of architecture and architectural engineering acquired by professional education
13 and practical experience is qualified to engage in the practice of architecture and who has
14 been duly registered and licensed by the Guam Board of Registration for Professional
15 Engineers, Architects and Land Surveyors as an Architect.

16 (2) Practice of Architecture — The term *Practice of Architecture*, as used in this [Title]
17 Chapter, means any service or creative work, the adequate performance of which requires
18 architectural education, training and experience and the application of the mathematical and
19 physical sciences and the principles of architecture and architectural engineering to such
20 professional services or creative work as consultation, investigation, evaluation, planning,
21 design, construction management, ~~[or]~~ supervision or observation of construction for the
22 purpose of assuring compliance with specifications and design in connection with any
23 building which has as its principal purpose human occupancy or habitation, any other
24 building, or any monument, structure, waterfront development, site development or project
25 including topographic work, grading and engineering incidental to the performance of any
26 architectural service or other services recognized by educational authorities as architecture.

27 (3) Registered Architect — The term *Registered Architect*, as used in this Chapter, shall
28 mean ~~[a] the person who has been duly registered and licensed by an Architect holding a~~
29 current registration with the Guam Board of Registration for Professional Engineers,
30 Architects and Land Surveyors as a Registered Architect.

31 (4) Architect Emeritus — The term *Architect Emeritus*, as used in this Chapter, shall
32 mean a person who is an “Architect, Retired”; and who is sixty five (65) years of age; and
33 has been registered on Guam for at least five (5) years; and has been a resident of Guam for
34 at least five (5) years; and has had no disciplinary action against him; and who applies to and
35 is approved by the Board to be granted the use of the honorific title, *Architect, Emeritus*.

36 (5) Architect, Retired — The term *Architect, Retired*, as used in this Chapter, shall mean
37 a person who has been duly licensed as an Architect by the Board and who chooses to
38 relinquish or not to renew a license and who applies to and is approved by the Board to be
39 granted the use of the honorific title, *Architect, Retired*.

40 (c) Landscape Architect

41 (1) Landscape Architect — The term *Landscape Architect*, shall mean a person who has
42 been duly registered/licensed by the Board to engage in the practice of landscape
43 architecture in Guam.

44 (2) Practice of Landscape Architecture — The term *Practice of Landscape*
45 *Architecture* means:

46 (a) Those who holds themselves out as able to perform professional services such as
47 consultation, investigation, reconnaissance, research, design, preparation of drawings and

1 specifications, and responsible supervision where the dominant purpose of such services is
2 the preservation and enhancement of land uses and natural land features; the location and
3 construction of aesthetically pleasing and functional approaches for structures, roadways,
4 and walkways; and design for equestrian trails, plantings, landscape irrigation, landscape
5 lighting, and landscape grading. This practice shall include the location, arrangements, and
6 design of such tangible objects and features as are incidental and necessary to the purposes
7 outlined herein. Nothing herein shall preclude a duly registered landscape architect from
8 planning the development of land areas and elements used thereon or from performing any
9 of the services described in this section in connection with the settings, approaches, or
10 environment for buildings, structures, or facilities. A registered landscape architect shall not
11 practice or offer to practice architecture or any branch of engineering.

12 (b) A person is considered to be practicing or offering to practice landscape architecture,
13 within the meaning and intent of the law, who practices the profession of landscape
14 architecture or who, by verbal claim, sign, advertisement, letterhead, card or in any other
15 way represents themselves to be a landscape architect or through the use of some other title,
16 implies that they are licensed or holds themselves out as able to perform or who does
17 perform any landscape architecture service or work or any other service designated by the
18 practitioner which is recognized as landscape architecture.

19 ~~(e)~~(d) Land Surveyor.

20 (1) Land Surveyor — The term ‘Land Surveyor’, as used in this [Aet] Chapter, shall
21 mean a person who is knowledgeable in the technique of measuring land, educated in the
22 basic principles of mathematics, the related physical and applied sciences, and relevant
23 requirements of law for adequate evidence and all requisite to the surveying of a real
24 property and engaged in the practice of land surveying as herein defined. ~~and has been duly~~
25 ~~registered and licensed by the Guam Board of Registration for Professional Engineers,~~
26 ~~Architects and Land Surveyors as a Land Surveyor.~~

27 (2) Professional Land Surveyor — The term *Professional Land Surveyor*, as used in this
28 [Title] Chapter, shall mean a person who ~~[has been]~~ is duly registered and licensed by the
29 Guam Board of Registration for Professional Engineers, Architects and Land Surveyors as a
30 Professional Land Surveyor, and who is a professional specialist in the technique of
31 measuring land, educated in the basic principles of mathematics, the related physical and
32 applied sciences, and the relevant requirements of law for adequate evidence and all requisite
33 to surveying of real property, and engaged in the practice of surveying as herein defined.

34 (3) Professional Land Surveyor, Emeritus — the term *Professional Land Surveyor,*
35 *Emeritus* as used in this Chapter, shall mean a person who is a professional land surveyor
36 retired; and who is sixty five (65) years of age; and has been registered on Guam for at least
37 five (5) years; and has been a resident of Guam for at least five (5) years; and has had no
38 disciplinary action against him; and who applies to and is approved by the Board to be
39 granted the use of the honorific title, *Professional Land Surveyor, Emeritus.*

40 (4) Professional Land Surveyor, Retired — the term *Professional Land Surveyor,*
41 *Retired* as used in this Chapter shall be a person who has been duly licensed as a
42 professional land surveyor by this Board and who chooses to relinquish or not to renew a
43 license and who applies to and is approved by the Board to be granted the use of the
44 honorific title, *Professional Land Surveyor, Retired.*

45 ~~{(3)}~~(5) Land Surveyor Intern — ~~{†}~~The term *Land Surveyor Intern*, as used in this
46 [Title] Chapter, means a person who has qualified for, taken and passed the land surveyor
47 intern examinations as provided in this [Title] Chapter.

1 ~~[(4)] (6) Practice of Land Surveying~~ — The term *Practice of Land Surveying*, as used in this
2 ~~[Title] Chapter, [means any service or work, the adequate performance of which involves the~~
3 ~~application of special knowledge of the principles of mathematics, the related physical and~~
4 ~~applied sciences, and the relevant requirements of law for adequate evidence to the act of~~
5 ~~measuring and locating lines, angles, elevations, natural and man-made features in the air, on the~~
6 ~~surface of the earth, within the underground workings, and on the beds of bodies of water for~~
7 ~~the purposes of determining areas and volumes, for the monumenting of property boundaries,~~
8 ~~and for the platting and layout of lands and subdivisions thereof, including the topography,~~
9 ~~alignment and grades of streets, and for the preparation and perpetuation of maps, record plats,~~
10 ~~field note records and property descriptions that represent these surveys, including construction~~
11 ~~management related services such as new construction layouts and post construction survey~~
12 ~~verification of as built conditions of horizontal and vertical works.] shall mean providing, or~~
13 offering to provide, professional services using such sciences as mathematics, geodesy, and
14 photogrammetry, and involving both (1) the making of geometric measurements and gathering
15 related information pertaining to the physical and or legal features of the earth, improvements on
16 the earth, the space above, on, or below the earth, and (2) providing, utilizing or developing the
17 same into survey products, such as graphics, data, maps, plans, reports, descriptions, or projects.
18 Professional services include acts of consultation, investigation, testimony evaluation, expert
19 technical testimony, planning, mapping, assembling and interpreting gathered measurements and
20 information related to any one or more of the following:

- 21 a. Determining by measurement the configuration or contour of the earth's surface or
22 the position of fixed objects thereon.
- 23 b. Determining by performing geodetic surveys the size and shape of the earth or the
24 position of any point on the earth.
- 25 c. Locating, relocating, establishing, or retracing property lines or boundaries of any
26 tract of land, road, right-of-way, or easement.
- 27 d. Marking any survey for the division, subdivision, or consolidation of any tract(s) of
28 land.
- 29 e. Locating or laying out alignments, positions, or elevations for the construction of
30 fixed works.
- 31 f. Determining, by the use of principles of surveying, the position for any survey
32 monument (boundary or non-boundary) or reference point; establishing or replacing
33 any such monument or reference point.
- 34 g. Creating, preparing, or modifying electronic or computerized data, relative to the
35 performance of the activities in the above described items a through f.
- 36 h. Certifying, within the metadata of a Geographical Information System data base, the
37 positional accuracy of the features, cadastral and/or boundary lines, fixed objects,
38 utilities, images and graphically displayed data sets that are used for base mapping.

39 A person shall be construed to practice or offer to practice surveying, within the meaning and
40 intent of this Chapter, who by verbal claim, sign, advertisement, letterhead, card, or in any other
41 way represents themselves to be a land surveyor or through the use of some other title implies
42 that they are a professional land surveyor or that they are licensed under this Chapter; or who
43 hold themselves out as able to perform, or who does perform any surveying service or work or
44 any other service designated by the practitioner which is recognized as surveying except to
45 references to engineering surveys.

46 (d) Approved School — The term *Approved School* as used in this ~~[Title] Chapter~~, shall mean

1 institutions offering curricula leading to first professional degrees in engineering, architecture or
2 land surveying and are accredited by the Accreditation Board for Engineering and Technology,
3 Inc., ~~for the NCEES Ad Hoc Subcommittee on Foreign Education of the International Relations~~
4 ~~Committee,~~ or the NCEES Center for Professional Engineering Education Services or the
5 National Architectural Accreditation Board.

6 (e) ARE — The term *ARE* as used in this [Title] Chapter shall mean the current Architect
7 Registration Examination ~~[provided]~~ prepared by the National Council of Architectural
8 Registration Boards.

9 (f) Association — The term *Association* as used in this [Title] Chapter, shall mean the act of a
10 number of persons in uniting together for some special purpose or business. It is a term of
11 vague meaning used to indicate a collection or organization of persons who have joined
12 together for a certain or common objective.

13 (g) Board — The term *Board*, as used in this [Aet] Chapter shall mean the Guam Board of
14 Registration for Professional Engineers, Architects, and Land Surveyors, hereinafter
15 provided by this [Aet] Chapter.

16 (h) Certificate of Authorization — The term *Certificate of Authorization* as used in this Chapter,
17 shall mean those presents issued by the Guam Board of Registration for Professional
18 Engineers, Architects and Land Surveyors to a corporation, ~~[company,]~~ partnership,
19 proprietorship, limited liability company, or other legal entity allowed by Guam Law ~~[ete.;~~
20 in the name of that organization which serves to identify it as having the legal right to offer
21 engineering, architectural, land surveying or construction management services.

22 (i) Certificate of Registration — The term *Certificate of Registration* as used in this Chapter
23 shall mean those presents issued by the Guam Board of Registration for Professional
24 Engineers, Architects and Land Surveyors to an individual in his own name, which serves to
25 identify those legally entitled to practice engineering, architecture or land surveying.

26 (j) CLARB — The term *CLARB* as used in this Chapter shall mean the Council of Landscape
27 Architectural Registration Boards.

28 ~~{(j)}~~(k) Construction Management — ~~[t]~~The term *Construction Management*, as used in this
29 [Aet] Chapter, to be performed by licensed engineers, architects, or land surveyors, shall
30 include but not be limited to professional services during construction such as permitting
31 process and coordination, bid evaluation and contract award, processing of payment requests
32 and change orders, claims and dispute resolution, review and approval of submittals and
33 progress schedules, onsite quality assurance inspections and testing, survey checks,
34 compliance to contract documents, and contract closeout including as-built drawings and
35 Operation & Maintenance manuals and training.

36 ~~{(k)}~~(l) Corporation — The term *Corporation*, as used in this [Aet] Chapter, shall mean an
37 association of individuals or legal entity created by or under the authority of the laws of a
38 territory, state or nation, composed, in some rare instances, o~~[f]~~ a single person and his
39 successors, being the incumbents of a particular office, but ordinarily consisting of an
40 association of numerous individuals.

41 ~~{(l)}~~(m) CSCS---- The term *CSCS* as used in this [Aet] Chapter shall mean the California
42 Special Civil Seismic examination ~~[provided]~~ prepared by the California Board of
43 Professional Engineers and Land Surveyors.

44 (n) IDP — The letters ‘IDP’ as used in this Chapter shall mean Intern Development
45 Program prepared and issued by the NCARB.

46 (o) L.A.R.E. — The letters ‘L.A.R.E.’ as used in this Chapter shall mean the landscape
47 architect registration examination prepared by the Council of Landscape Architectural

1 Registration Boards.

2 (p) NCARB — The term ‘NCARB’ as used in this Chapter shall mean the National Council
3 of Architectural Registration Boards.

4 (q) NCEES — The term ‘NCEES’ as used in this Chapter shall mean the National Council
5 of Examiners for Engineering and Surveying.

6 ~~(m)(r)~~ Partner — The term *Partner* as used in this [Aet] Chapter, shall mean one who has
7 united with others to form a partnership in business.

8 ~~(n)(s)~~ Proprietorship — The term *Proprietorship* as used in this [Aet] Chapter, shall mean
9 business, usually unincorporated, owned and controlled exclusively by one person. Such a
10 business is commonly designated a ‘sole proprietorship’.

11 ~~(o)(t)~~ Registrant or Licensee — The term *Registrant or Licensee* as used this [Aet] Chapter
12 shall mean any person holding a current registration as a Professional Engineer, Registered
13 Architect or Professional Land Surveyor.

14 ~~(p)(u)~~ Responsible Control — The term *Responsible Control*, as used in this [Aet] Chapter,
15 shall mean [direct control and personal supervision of engineering, architectural or land
16 surveying projects.] that amount of control over and detailed knowledge of the content of the
17 technical submission during their preparation as is ordinarily exercised by professional
18 engineers, registered architects and/or professional land surveyors applying the required
19 professional standard of care. Reviewing, or reviewing and correcting, technical
20 submissions after they have been prepared by others does not constitute the exercise of
21 responsible control because the reviewer has neither control over nor detailed professional
22 knowledge of the content of such submissions throughout their preparation.

23 ~~(r)(v)~~ Responsible Managing Employee — The term *Responsible Managing Employee*, as
24 used in this Aet Chapter, shall mean a person who is licensed under this [Aet] Chapter and
25 who has been designated pursuant to §32123 of this [Aet] Chapter by the firm. The
26 managing employee is responsible for the engineering, architecture or land surveying work
27 on Guam and/or for projects or property within this jurisdiction offered or provided by the
28 firm. A licensee may not be designated as a responsible managing employee for more than
29 one (1) firm. An engineer, architect or surveyor who renders occasional part-time, or
30 consulting services to, or for, a firm may not be designated as a managing employee. The
31 managing employee’s responsibilities include:

- 32 1. Renewal of the Certificate of Authorization and notification to the Board of any change
33 in the managing employee.
- 34 2. Overall supervision of the firm’s licensed and subordinate personnel providing the
35 engineering, architecture or surveying work in this jurisdiction.
- 36 3. Institution and adherence of policies of the firm that are in accordance with the Rules of
37 Professional Conduct, adopted pursuant to Section 32109(e) of this Chapter.

38 ~~(s)(w)~~ Rules of Professional Conduct for Professional Engineers, Architects and Land
39 Surveyors — The term *Rules of Professional Conduct for Professional Engineers,*
40 *Architects and Land Surveyors* as used in this [Title] Chapter, means those rules
41 promulgated by the Board as authorized by law.

42 (x) Technical Submissions — Designs, drawings, specifications, studies, and other
43 technical documents prepared in the course of practicing engineering, architecture and land
44 surveying. All technical submissions shall be identified by date and by name and address of
45 the licensee or licensee’s firm.

46 (y) WCARB — The term *WCARB* as used in this Chapter, shall mean the Western Council
47 of Architectural Registration Boards.

1 **§32104. Board Appointments; Terms.** A Guam Board of Registration for Professional
2 Engineers, Architect and Land Surveyors is created whose duty shall be to administer the provisions
3 of this [Title] Chapter.

4 (a) The Board shall consist of seven (7) members, at least two (2) being female, to be
5 constituted as follows: the Director of Public Works, five (5) members who shall be
6 registered under the provisions of this [Title] Chapter and one (1) member of the general
7 public who shall not have been registered under the provisions of this [Title] Chapter or
8 practicing in any of the professions covered by this [Title] Chapter. Except for the Director
9 of Public Works, a member shall be appointed by *I Maga'lahaen Guahan (Governor)* for a
10 term of four (4) years. Of the five (5) registered professional members, two (2) shall be
11 registered architects, two (2) shall be professional engineers, and one (1) shall be a
12 professional land surveyor.

13 (b) The Chairman, Vice-Chairman and Secretary/Treasurer shall be elected annually by
14 majority vote of the Board members at the first regular meeting of the Board after January 1.

15 (c) Each member of the Board shall receive a notice of his appointment from the *I*
16 *Maga'lahaen Guahan (Governor)* and shall take an oath for the faithful discharge of his
17 duties. Appointments to the Board shall be in such manner so that the term of each member
18 shall expire at a different time. On the expiration of the term of any member, *I Maga'lahaen*
19 *Guahan (Governor)* shall appoint a successor. A member may be reappointed to succeed
20 himself but not for more than two (2) consecutive terms. Each member may hold office until
21 the expiration of the term for which appointed or until his successor has been duly appointed
22 and qualified.

23 (d) In the event of a vacancy on the Board for reason resulting in an unexpired term and *I*
24 *Maga'lahaen Guahan (Governor)* failing to appoint a successor within three (3) months after
25 the vacancy occurs, the Board may appoint a provisional member to serve in the interim
26 until the *I Maga'lahaen Guahan (Governor)* makes an appointment.

27 **§32105. Board -- Qualifications of Members.** Each member of the Board shall be a citizen
28 of the United States and a resident of Guam. Board members who are required to be
29 registered pursuant to §32104 of this [Title] Chapter shall have been in responsible
30 control in the lawful practice of engineering, architecture or land surveying for at least
31 ~~[five (5)]~~ eight (8) years and with no record of disciplinary action from any jurisdiction.
32 The public member of the Board shall not be or have been an engineer, architect or land
33 surveyor.

34 **§32106. Board -- Compensation and Expenses.** (a) Each member of the Board shall be
35 entitled to receive compensation as provided for in the ~~[by laws]~~ rules and regulations
36 and by law and shall be reimbursed for reasonable and necessary expenses incurred in
37 the course of official duties, when attending to the work of the Board or any of its
38 committees and during time spent in necessary travel.

39 (b) Members shall be reimbursed for conference or convention registration fees,
40 all actual traveling, incidental and clerical expenses necessarily incurred in carrying out
41 the provisions of this [Title] Chapter.

42 (c) The Board shall budget for and pay travel expenses of members of the Board,
43 officers, consultants and staff, as approved by the Board and certified by the Chairman.

44 **§32107. Board -- Removal of Members; Vacancies.** The *I Maga'lahaen Guahan (Governor)*
45 may remove any member for misconduct, ~~[incompetency,]~~ incompetence, neglect of
46 duty, or any sufficient cause, in the manner prescribed by law for removal of territorial
47 officials. Vacancies in the membership of the Board shall be filled for the unexpired

1 term by appointment by the *I Maga'lahaen Guahan* (Governor) as provided in §32104.

2 **§32108. Board -- Organization and Meetings.** The Board shall hold at least six (6) regular
3 meetings each year. Special meetings may be held as the ~~[by-laws]~~ rules and regulations of the
4 Board provide. A quorum of the Board shall consist of not less than four (4) members, three (3) of
5 whom shall be registered under the provisions of this ~~[Title]~~ Chapter.

6 **§32109. Board -- Powers.** (a) The Board shall have the power to adopt and amend all by-
7 laws and rules of procedure not inconsistent with the Organic Act of Guam and laws of ~~[this~~
8 ~~Territory,]~~ Guam, including the adoption and promulgation of Rules of Professional Conduct for
9 Professional Engineers, Architects, and Land Surveyors, which shall be binding upon persons
10 registered under this ~~[Title]~~ Chapter and which shall be applicable to corporations, partnerships or
11 associations holding a Certificate of Authorization, which may be reasonabl[e]y necessary for the
12 proper performance of its duties and the regulation of its procedures, meetings, records,
13 examinations and the conduct thereof. These actions by the Board shall be binding upon the persons
14 registered or licensed under this Chapter and on non-licensees found by the Board to be in violation
15 of provisions of the Chapter and shall be applicable to corporations holding a certificate of
16 authorization as provided in Section 32123 of this Chapter.

17 (b) The Board shall adopt and have an official seal, which shall be affixed to each
18 certificate issued.

19 (c) In carrying into effect the provisions of this ~~[Title]~~ Chapter, the Board under the hand
20 of its Chairman and the seal of the Board, may subpoena witnesses and compel their attendance and
21 also may require the submission of books, papers, documents, or other pertinent data, in any
22 disciplinary matters, or in any case wherever a violation of this ~~[Title]~~ Chapter is alleged. Upon
23 failure or refusal to comply with any such order of the Board, or upon failure to honor its subpoena,
24 as herein provided, the Board may apply to a court of any jurisdiction to enforce compliance with
25 same.

26 (d) The Board, in the name of ~~[the Territory]~~ Guam, may apply for relief by injunction in
27 the Superior Court, without bond, to enforce the provisions of this ~~[Title]~~ Chapter, or to restrain any
28 violation thereof. In such proceedings, it shall not be necessary to allege or prove, either that an
29 adequate remedy at law does not exist, or that substantial or irreparable damage would result from
30 the continued violation thereof. The members of the Board shall not be personally liable under
31 ~~[this]~~ these proceedings.

32 (e) The Board shall have prepared and shall adopt a set of rules for professional conduct
33 which shall be binding upon persons registered under this ~~[Title]~~ Chapter, and which shall be made
34 known in writing to every registrant and applicant for registration under this ~~[Title]~~ Chapter, and
35 which shall be published in the roster provided for in §32112 of this ~~[Title]~~ Chapter. The Board
36 may revise and amend these rules for professional conduct from time to time and shall forthwith
37 notify each registrant in writing of such revisions or amendments.

38 (f) The adoption and amendment of such ~~[by-laws and]~~ rules and regulations and rules
39 of procedure and rules of professional conduct shall be in accordance with the provisions of the
40 Administrative Adjudication Law.

41 (g) The Board may subject an applicant for registration to such examinations as may be
42 provided for in the ~~[by-laws]~~ rules and regulations to determine his qualifications.

43 (h) The Board shall encourage private professional engineering and architectural
44 societies to conduct seminars to prepare applicants for the examinations and shall assist in the
45 coordination of the seminars.

46 (i) The Board shall have the power and authority to require a demonstration of
47 continuing professional competency of engineers, architects and land surveyors as a condition of

1 renewal or relicensure.

2 (j) The Board shall have the authority for citation and fining persons and business
3 entities engaged in the unlawful practice of engineering, architecture and land surveying who are not
4 licensed or authorized in this jurisdiction in accordance with Sections 32121 and 32122, and as
5 provided by law.

6 (k) The Board shall maintain the PEALS Revolving Fund within the cognizance of the
7 members of the Board to continue to manage the day-to-day financial obligations of the Board.
8 Such revolving fund shall be maintained separate and apart from other funds of the government of
9 Guam, and independent records and accounts shall be maintained in connection therewith as
10 prescribed by the Chairman and members of the Board. Furthermore, said Fund shall be subject to
11 an annual audit by an independent auditor.

12 (l) The Board shall have the power to appoint committees to assist the Board's efforts in
13 carrying out the responsibilities of this Chapter.

14 (m) The Board shall have the power to adopt and collect fees in amounts necessary to
15 enable the Board to carry out its function under this Chapter.

16 (n) The Board shall retain and exercise all administrative and civil rights and remedies
17 commonly available to agencies in the jurisdiction. No action or other legal proceedings for
18 damages shall be instituted against the Board or against any Board Member or employee or agent of
19 the Board for any act done in good faith and in the intended performance of any power granted
20 under this Chapter or for any neglect or default in the performance or exercise in good faith of any
21 such duty or power.

22 **§32110. Records and Reports.** (a) The Board shall keep a record of its proceedings
23 and of all applications for registration, which record shall show:

- 24 (1) the applicant's name, age and last known address;
- 25 (2) the date of the application;
- 26 (3) the applicant's place of business;
- 27 (4) the applicant's education, experience and other qualifications;
- 28 (5) the type of examination required;
- 29 (6) whether or not the applicant was rejected;
- 30 (7) whether or not a certificate of registration was granted;
- 31 (8) the date of the action by the Board; and
- 32 (9) such other information as may be deemed necessary by the Board.

33 (b) The record of the Board shall be *prima facie* evidence of the proceedings of the
34 Board, and a transcript thereof, duly certified by the Secretary under seal, shall be admissible
35 as evidence with the same force and effect as if the original were produced.

36 (c) At the end of every fiscal year, the Board shall prepare and submit to *I Maga'laha*
37 *Guahan* (Governor) and to *I Liheslaturan Guahan* (Guam Legislature) no later than the
38 first day of November, a report of its transactions of the preceding year, and shall
39 transmit to them a complete statement of the receipts and expenditures of the Board,
40 attested by affidavits of its Chairman and its Secretary/Treasurer.

41 (d) Board records and papers of the following class are of a confidential nature and are not
42 public records: all examination materials for examinations not yet given and examination
43 solutions for which the grades have not yet been published; file records of examination
44 problem solutions, letters of inquiry and reference concerning applicants, Board inquiry
45 forms concerning applicants, investigation files where any investigation is still pending,
46 and all other matters of like confidential nature.

47 **§32111. Receipts and Disbursements.** (a) Notwithstanding the Central Accounting Act,

1 all fees and money collected under the provisions of this [Title] Chapter shall be deposited in a
2 special fund known as the *Professional Engineers, Architects and Land Surveyors Fund*. This fund
3 shall be kept in a bank licensed to do business on Guam and funds shall be paid out only upon a
4 request for payment or requisition submitted by the Secretary/Treasurer or its personnel and
5 countersigned by the Chairman of the Board. All monies in this fund are hereby specifically
6 appropriated only for the use of the Board in pursuit of its authority.

7 (b) The Board shall provide surety bonds in the name of Guam on behalf of the Chairman, the
8 Secretary/Treasurer and the Executive Board Administrator, in the sum of Thirty Thousand Dollars
9 (\$30,000) each. The premium on said bonds shall be regarded as proper and necessary expenses of
10 the Board.

11 (c) Upon an appropriation by *I Liheslaturan Guahan* (Guam Legislature) and subject to any
12 limitations which may be contained therein, the Board shall make expenditures from this fund for
13 any purpose which is approved by the Board as reasonable and necessary for the proper
14 performance of its duties under this [Title] Chapter, including the expenses of the Board delegates to
15 meetings of and the membership fees to the National Council of Examiners for Engineering and
16 Surveying and any of its subdivisions and the National Council of Architectural Registration Boards
17 and any of its subdivisions.

18 (d) The Board shall employ in the classified positions an Executive Board Administrator,
19 Administrative Assistant, Board Investigator and other administrative staff as are necessary for the
20 proper performance of its work. Salaries and other terms of compensation for each Board staff
21 position shall be determined by the [~~Civil Service Commission~~] Department of Administration.
22 Payments of expenses and salaries pursuant to the administration of this [Title] Chapter may not
23 exceed available funds of the Board.

24 (e) The Chairman of the Board is the designated Certifying Officer and all expenditures from
25 the fund shall be certified by the Chairman of the Board. Under no circumstance shall the amount of
26 warrants issued in payment of the expenses and compensation provided for in this [Title] Chapter
27 exceed the amount of money collected.

28 (f) The Board shall adopt rules or [~~by-laws~~] regulations to provide for an annual budget, an
29 accounting procedure, and the fees for application, registration, examination, re-examination,
30 reciprocity, renewal of registration, temporary permits, corporation permits, replacement of
31 certificates, reconsideration of application, and other services.

32 (g) The Board shall maintain membership in NCARB, NCEES and its subdivisions and pay the
33 necessary costs thereof.

34 **§32112. Roster.** A complete roster showing the names and last known addresses of all
35 registered engineers, architects, land surveyors, and business entities shall be published by the
36 Secretary of the Board annually not later than the last day of the third month of each year, and shall
37 include each registrant's certificate or registration number. The roster shall be in non-editable
38 electronic format which is printable and available via the internet. Notice of the publication and
39 availability of the [~~Copies of this~~] roster shall be mailed to each person so registered [~~and to each~~
40 ~~applicant for registration~~], paper copies of the roster [~~and~~] shall be placed on file with *I Maga'laha*
41 *Guahan* (Governor), the Speaker of *I Liheslaturan Guahan* (Guam Legislature), and other state and
42 territorial boards, and with each department and agency of the Government of Guam. [~~Additional~~
43 ~~copies may be purchased from the PEALS Board office.~~]

44 **§32113. General Requirements for Registration.** (a) No person shall be eligible for
45 admission to the examination for registration for professional engineer, architect or land surveyor, or
46 for enrollment as an engineer intern or land surveyor intern, under this [Title] Chapter unless he:

47 (1) is a citizen of the United States or a [~~permanent resident alien eligible for United States~~

1 ~~citizenship;~~ legally admitted alien authorized to work in the United States;

2 (2) is of good moral character and repute.

3 (3) meets the professional qualifications prescribed by this [Title] Chapter; and;

4 (4) submits five (5) references with the applicant's application for registration as a
5 professional engineer, architect or land surveyor, three (3) of which shall be from
6 practitioners registered in the discipline in which he seeks registration and having
7 personal knowledge of his experience in that discipline, or in the case of an application
8 for certification as an engineer intern or land surveyor intern, by three (3) character
9 references.

10 (b) The following shall be considered as minimum evidence satisfactory to the Board that the
11 applicant is qualified for registration:

12 (1) as a Professional Engineer:

13 (i) ~~[Graduation, Experience and]~~ Licensure or Registration by Examination —
14 An Engineer Intern with a specific record of an additional four years or more of
15 progressive experience on engineering projects of a grade and character which indicates
16 to the Board that the applicant may be competent to practice engineering shall be
17 admitted to an eight hour written examination in the principles and practices of
18 engineering, and in the case of specific engineering disciplines, other examinations as
19 prescribed in the by-laws. ~~[graduate of an engineering curriculum of four (4) years or~~
20 ~~more approved by the Board as being of satisfactory standing; and with a specific record~~
21 ~~of an additional four (4) years of lawful progressive experience on engineering projects~~
22 ~~satisfactory to the Board, at least one (1) year of which shall have been under the~~
23 ~~supervision of a registered engineer of a grade and character which indicates to the Board~~
24 ~~that the applicant may be competent to practice engineering, shall be admitted to a~~
25 ~~written examination in the fundamentals of engineering and a written examination in the~~
26 ~~principles and practice of engineering as prescribed by the by-laws.]~~ (Upon passing such
27 examination(s), the applicant shall be granted a certificate of registration to practice
28 engineering on Guam, provided the applicant is otherwise qualified.)

29 (ii) Graduation, Experience and Examination — A graduate of an engineering or
30 related science curriculum of four (4) years or more, other than the ones approved by the
31 Board as being of satisfactory standing, and with a specific record of eight (8) years or
32 more of progressive experience, at least two (2) years of which shall have been under
33 the supervision of a registered engineer on projects of a grade and character which
34 indicates to the Board that the applicant may be competent to practice engineering, shall
35 be admitted to a written examination in the fundamentals of engineering and a written
36 examination in the principles and practice of engineering as prescribed in the by-laws.
37 Upon passing such examination, the applicant shall be granted a certificate of registration
38 to practice engineering on Guam, provided the applicant is otherwise qualified.

39 (iii) A Non-graduate from a Technical Curriculum — A non-graduate of an
40 engineering or related science curriculum of four (4) years or more, with a specific
41 record of three (3) years or more in such a curriculum plus twelve (12) years or more of
42 progressive experience on engineering projects four (4) years of which must have been
43 under the supervision of a registered engineer and of which at least six (6) years have
44 been in responsible control of engineering projects of a grade and character which
45 indicates to the Board that the applicant may be competent to practice engineering, shall
46 be admitted to a written examination in the fundamentals of engineering and the
47 principles and practice of engineering as prescribed in the by-laws. Upon passing such

1 examination, the applicant shall be granted a certificate of registration to practice
2 engineering on Guam, provided the applicant is otherwise qualified.

3 (iv) Licensure or Registration by Comity or Endorsement — A person whose
4 qualifications meet the requirements of this [Title] Chapter may, upon application, be
5 registered as a professional engineer identical to his active engineer registration in other
6 jurisdictions if:

7 (aa) ~~[the applicant holds]~~ a current certificate of registration ~~[to engage]~~ in
8 the practice of engineering issued ~~[to him]~~ by a proper authority of a ~~[state, territory]~~
9 jurisdiction or possession of the United States, the District of Columbia or any
10 foreign country, based on requirements that do not conflict with the provisions of this
11 Chapter [from which a certificate of registration is recognized by the National
12 Council of Examiners for Engineering and Surveying at such time that the National
13 Council of Examiners for Engineering and Surveying recognizes registration from
14 any foreign country, so long as the issuance of such certificate is based on verified
15 evidence and is based on requirements that do not conflict with the provision of this
16 Title] and possessing credentials that are, in the judgment of the Board, [which are]
17 of a standard not lower than specified in the applicable section of this [Title] Chapter
18 in effect in Guam at the time such certificate was issued may upon application, which
19 may include a Council Record with NCEES, be registered or licensed without further
20 examination except as required to present evidence of knowledge of statutes, rules,
21 and design requirements unique to this jurisdiction, provided that ;[or]

22 (bb) he holds a valid certificate issued by the Committee on National
23 Council of Engineering Certification of the National Council of Examiners for
24 Engineering and Surveying;

25 (cc) the applicant passes the California Special Civil Seismic examination
26 (for Civil Engineering applicants only);

27 (dd) the applicant passes the Fundamentals of Engineering examination
28 (for applicants with Fundamentals of Engineering waivers from other jurisdictions);
29 and

30 (ee) the applicant maintains current registration ~~from his based jurisdiction~~
31 ~~where license was obtained through examination in~~ with at least one other
32 jurisdiction, the District of Columbia, a territory or a possession of the United States.

33 (ff) A person holding an active Council Record with the NCEES, whose
34 qualifications as evidenced by the Council Record, meet the requirements of this
35 Chapter, may, upon application, be licensed or registered without further examination
36 except as required to examine the applicant's knowledge of statutes, rules and design
37 requirements unique to this jurisdiction, provided the applicant passes the California
38 Special Civil Seismic (CSCS) examination (for Civil engineering applicants only).

39 (v) Engineering Teaching — Engineering teaching in a college or university offering an
40 approved engineering curriculum of four (4) years or more may satisfy only a portion of
41 the required engineering experience.

42 (2) As an Engineer Intern:

43 (i) ~~[Graduation and Examination]~~ A college senior or a graduate of an engineering
44 curriculum of four (4) years or more, ~~approved by the Board as being of satisfactory~~
45 ~~standing who has passed the examination as prescribed in the by-laws~~ accredited by
46 EAC/ABET, or the equivalent shall be admitted to the current form of examination in the

1 Fundamentals of Engineering prepared and furnished by NCEES. Upon passing such
2 examination and providing proof of graduation, the applicant shall be certified or
3 enrolled as an engineer intern, if the applicant is otherwise qualified.

4 (ii) Experience and Examination — An applicant with a record of six (6) or more years of
5 experience in engineering work of a grade and character satisfactory to the Board, and
6 who passes the examination as prescribed in the by-laws shall be certified or enrolled as
7 an engineer intern, if the applicant is otherwise qualified.

8 (iii) Graduation, Experience and Examination — A graduate of an engineering or related
9 science curriculum of four (4) years or more, other than the ones approved by the Board
10 as being of satisfactory standing, shall be admitted to an examination as prescribed in the
11 by-laws. Upon passing such examination, the applicant shall be certified or endorsed as
12 an engineer intern, if the applicant is otherwise qualified.

13 (3) As an Architect:

14 (i) ~~[Graduation,]~~ Education, Experience and Examination — A graduate of an NAAB
15 accredited program ~~[curriculum of not less than five (5) years]~~ from a school of
16 architecture approved by the Board as being of satisfactory standing and at least three (3)
17 years of progressive experience satisfactory to the Board in architectural work covering
18 the major categories of architectural practice, at least two (2) years of which shall have
19 been under the supervision of a registered architect, shall be eligible for a written
20 examination as prescribed in the ~~[by-laws]~~ rules and regulations. Upon passing such
21 examination, the applicant shall be granted a certificate of registration to practice
22 architecture in ~~[this territory]~~ Guam, if the applicant is otherwise qualified.

23 (aa) Effective June 1, 2009, a new or inactive candidate applying to the Board for
24 eligibility evaluation for the Architect Registration Examination (ARE) shall prior to
25 registration or licensure complete the Intern Development Program (IDP) of the National
26 Council of Architectural Registration Boards (NCARB), as defined herein and in the
27 rules and regulations set forth, and the most recent or current form of IDP guidelines
28 prepared and prescribed by the NCARB. The IDP requirement does not apply to a
29 candidate who: (a) was determined by the Board to be eligible on or before May 31,
30 2009 and who is active in the examination process; or (b) has completed all the
31 necessary education equivalents prior to June 1, 2009, who has submitted a completed
32 application for eligibility evaluation to the Board that is postmarked on or before May
33 31, 2009, and who has been determined by the Board to be eligible.

34 (bb) A new or inactive candidate shall submit an Application form, as prescribed
35 and furnished by the Board, and accompanied by such supporting documents required
36 herein. Such supporting documents shall include the candidate's current and valid IDP
37 file transmitted by NCARB.

38 (cc) As a candidate acquires additional work experience, it is the candidate's
39 responsibility to ensure that his/her employer(s) complete Employment Verification
40 Forms covering the work experience gained with that employer and that the forms are
41 submitted to the Board. Reporting shall be as per most current NCARB policies and
42 procedures.

43 (dd) Completion of the IDP shall fulfill the lawful experience requirement
44 provided in this Chapter and in the rules and regulations.

45 (ii) Experience and Examination — An applicant having eight (8) years of architectural training
46 or educational experience satisfactory to the Board of which a minimum of three (3) years
47 shall be experienced covering the major categories of architectural practice under the

1 supervision of a registered architect, shall be eligible for a written examination as prescribed
2 in the ~~[by laws]~~ rules and regulations. Upon passing such examination, the applicant shall
3 be granted a certificate of registration to practice architecture on Guam, if the applicant is
4 otherwise qualified.

5 (iii) Licensure or Registration by Comity or Endorsement — A person shall be licensed or
6 registered without further examination, if that person: ~~[who in the opinion of the Board~~
7 ~~meets the requirements of this Title and who holds a certificate of registration to engage in~~
8 ~~the practice of architecture on the basis of comparable qualifications issued by the proper~~
9 ~~authority of a state, Territory or possession of the United States, or the District of Columbia,~~
10 ~~or by any foreign country with which the National Council of Architectural Registration~~
11 ~~Boards holds a formal agreement of inter-recognition, based on requirements that do not~~
12 ~~conflict with the provisions of this Title and which are of a standard not lower than specified~~
13 ~~in the applicable section of this Title in effect on Guam at the time such certificate was~~
14 ~~issued, and based on verified evidence, as set forth in a current certificate of qualification~~
15 ~~issued by the National Council of Architectural Registration Boards, be registered without~~
16 ~~further examination.]~~

17 (aa) holds a current and valid registration issued by a registration authority recognized by the
18 Board; and

19 (bb) holds a National Council of Architectural Registration Board's Record; and

20 (cc) files his application with the Board, upon a form prescribed and furnished by the Board,
21 containing such information satisfactory to the Board, concerning the person, as the Board
22 considers pertinent.

23 (4) As a Landscape Architect:

24 (i) Licensure or Registration by Comity or Endorsement: A person, shall be registered without
25 further examination, if that person:

26 (aa) holds a current and valid registration to engage in the practice of landscape architecture
27 issued by a proper authority of a state or jurisdiction or possession of the United States, the
28 District of Columbia or any foreign country, have successfully passed a Council of
29 Landscape Architectural Registration Boards (CLARB) landscape architectural registration
30 examination (LARE); or

31 (bb) holds a current and active Council Record issued by the CLARB; and

32 (cc) files his application on a form prescribed and furnished by the Board, containing such
33 information satisfactory to the Board, concerning the person as the Board considers
34 pertinent.

35 ~~(4)~~(5) As a Land Surveyor:

36 The evaluation of a professional surveyor applicant's qualifications involves consideration of
37 education, technical, and surveying experience, exhibits of surveying projects with which the
38 applicant has been associated, recommendations by references, and a review of these categories
39 during the interview if the Board deems it necessary. The following shall be considered as
40 minimum evidence to the Board that the applicant is qualified for registration or licensure as a
41 professional surveyor:

42 (i) Licensure or Registration by ~~[Graduation, Experience and]~~ Examination — A ~~graduate of a~~
43 ~~surveying curriculum of four (4) years or more at an institution approved by the Board as~~
44 ~~being of satisfactory standing and with a specific record of an additional four (4) years or~~
45 ~~more of progressive combined office and field experience on land surveying work at least~~
46 ~~two (2) years of which shall be under the supervision of a registered land surveyor and of a~~
47 ~~grade and character which indicates to the Board that the applicant may be competent to~~

1 ~~practice land surveying, surveyor Intern with a specific record of an additional four (4) years~~
2 ~~of combined office and field experience satisfactory to the Board, in surveying, of which a~~
3 ~~minimum of three (3) years' progressive experience has been on surveying projects under~~
4 ~~the supervision of a professional surveyor shall be eligible to take the current form of~~
5 ~~examination prepared and furnished by the NCEES [or a written examination in the~~
6 ~~fundamentals of land surveying,] in the principles and practice of land surveying, and in~~
7 ~~Guam Land Matters as prescribed in the by-laws. (Upon passing such examination, the~~
8 ~~applicant shall be granted a certificate of registration to practice land surveying on Guam,~~
9 ~~provided the applicant is otherwise qualified.)~~

10 (ii) Education, Experience and Examination — A graduate of a surveying or related science
11 curriculum of four (4) years or more, other than the ones approved by the Board as being of
12 satisfactory standing, and with a specific record of an additional eight (8) years of combined
13 office and field experience satisfactory to the Board in land surveying of which a minimum
14 of three (3) years experience has been in responsible control of land surveying projects under
15 the supervision of a registered land surveyor, shall be admitted to a written examination in
16 the fundamentals of land surveying, in the principles and practice of land surveying and in
17 Guam Land Matters as prescribed in the by-laws. Upon passing such examination, the
18 applicant shall be granted a certificate of registration to practice land surveying on Guam,
19 provided he is otherwise qualified.

20 (iii) Experience and Examination — An applicant with a specific record of twelve (12) years or
21 more of practice in land surveying, of which at least eight (8) years have been in responsible
22 control of important land surveying work under the supervision of a registered land
23 surveyor, and of a grade and character satisfactory to the Board which indicates to the Board
24 that the applicant may be competent to practice land surveying, and who has passed a written
25 examination in the fundamentals of land surveying, in the principles and practice of land
26 surveying and in Guam Land Matters, shall be granted a certificate of registration to practice
27 land surveying on Guam, provided he is otherwise qualified.

28 (iv) Licensure or Registration by Comity or Endorsement —

29 (aa) A person holding a certificate of registration to engage in the practice of land
30 surveying ~~[on the basis of comparable qualifications]~~ issued by a proper authority of a
31 jurisdiction [state, territory] or possession of the United States or the District of
32 Columbia, or any foreign country, based on requirements that do not conflict with the
33 provisions of this [who in the opinion of the Board meets the requirements of this Title]
34 Chapter, and possessing qualifications that are, in the judgment of the Board, not lower
35 than that specified in the applicable licensure act in effect in this jurisdiction at the time
36 such certificate was issued, may upon application, which may include a Council Record
37 with the NCEES, be licensed without further examination except as required to present
38 evidence of knowledge of statutes, rules and surveying requirements unique to this
39 jurisdiction, provided that [will be given comity consideration. However, the applicant
40 may be required to take such examinations as the Board may deem necessary to
41 determine the applicant's qualifications, but in any event,] the applicant shall be required
42 to pass a written examination of not less than four (4) hours duration on Guam Land
43 Matters, which shall include questions on laws, procedures and practices pertaining to
44 land surveying on Guam.

45 (bb) A person holding an active Council Record with the NCEES, whose qualifications as
46 evidenced by the Council Record, meet the requirements of this Chapter, may, upon
47 application, be licensed without further examination except as required to examine the

1 applicant's knowledge of statutes, rules and surveying requirements unique to this
2 jurisdiction, provided that the applicant shall be required to pass a written examination of
3 not less than four (4) hours duration on Guam Land Matters, which shall include
4 questions on laws, procedures and practices pertaining to land surveying on Guam.

5 (v) Surveying Teaching — Surveying teaching in a college or university offering an approved
6 surveying curriculum of four (4) years or more may be considered as land surveying
7 experience satisfactory to the Board.

8 (5) As a Land Surveyor Intern:

9 (i) ~~[Graduation]~~ Education and Examination — A college senior or a graduate of surveying
10 curriculum of four (4) years or more approved by the Board as being of satisfactory standing
11 shall be admitted to a written examination in the fundamentals of land surveying, as
12 prescribed in the by-laws. Upon passing such examination, the applicant shall be certified or
13 enrolled as a land surveyor intern, if he is otherwise qualified.

14 (ii) Education, Experience and Examination — An applicant, upon satisfactory completion of a
15 land surveying or related science curriculum of two (2) years or more, and with a specific
16 record of an additional (4) years of combined office and field experience in land surveying
17 satisfactory to the Board, shall be admitted to a written examination in the fundamentals of
18 land surveying as prescribed in the by-laws. Should the applicant fail to pass the
19 fundamentals of land surveying examination on two occasions, the applicant shall be
20 required to complete a refresher course satisfactory to the Board before being readmitted for
21 examination. Upon passing such examination, the applicant shall be certified or enrolled as
22 a land surveyor intern, if he is otherwise qualified.

23 **§32114. Application and Registration Fees.** (a) Application for registration as a professional
24 engineer, architect or land surveyor or for certification as an engineer intern or land surveyor intern,
25 or for certificates of authorization, shall be on a form prescribed and furnished by the Board. It shall
26 contain statements made under oath showing the applicant's education and a detailed summary of
27 his technical and engineering, architectural and land surveying experience, and shall include the
28 names and complete mailing addresses of his references, none of whom ~~{should be}~~ is a current
29 member of the Board, as required in §32113 of this ~~[Title]~~ Chapter.

30 The Board may accept the certified information contained in a valid Council Record issued by
31 the National Council of Examiners for Engineering and Surveying Committee on National
32 Engineering Certification for professional engineer applicants or a valid Council Record issued by
33 the National Council of Architectural Registration Boards for architect applicants in lieu of the same
34 information that is required on the form prescribed and furnished by the Board.

35 (b) The application (for individuals and COAs), examination, and registration (for individuals
36 and COAs) fees shall be prescribed by the Board and shall be specified in the ~~[by-laws]~~ rules and
37 regulations.

38 (c) No fee refund will be made after the application has been received and acted upon by the
39 Board even if registration is denied.

40 **§32115. Examinations.** (a) The applicant may be subjected to such examinations as may be
41 deemed necessary to determine his qualifications. The examinations will be held at such times and
42 place as the Board may direct.

43 (b) Written examinations as specified in the ~~by-laws~~ rules and regulations may be taken only
44 after the applicant has met the other minimum requirements as provided for by §32113.

45 (c) A candidate failing an examination may apply for re-examination, which may be granted
46 upon payment of a fee established by the Board.

47 (d) A candidate whose grade in a previous examination indicates that he is unprepared may at

1 the discretion of the Board be required to wait one (1) year before being eligible for re-examination.

2 (e) The Board shall have prepared and adopted a syllabus for the written examinations in
3 engineering, architecture, and land surveying. It shall be published in brochure form and be
4 available as a handout to any person interested in being registered as a professional engineer,
5 architect, or land surveyor.

6 (f) Members of the PEALS Board are prohibited from taking any engineering, architecture or
7 land surveying examination administered on Guam while serving on the Board. However, members
8 may take such in another jurisdiction and have the examination scores accepted on Guam by the
9 Board, so long as said examination does not conflict with the provisions of this [Title] Chapter and
10 is of a standard not lower than that of an examination for the same administered on Guam.

11 **§32116. Certificates -- Seals.** (a) The Board shall issue to each applicant meeting the
12 requirements of this [Title] Chapter a certificate of registration which gives the registrant proper
13 authority to practice his profession on Guam. The certificate of registration for a professional
14 engineer shall carry the designation 'PROFESSIONAL ENGINEER' and shall also designate the
15 branch in which he is authorized to practice. The certificate of registration for an architect shall
16 carry the designation 'REGISTERED ARCHITECT' and the certificate of registration for a land
17 surveyor shall carry the designation 'PROFESSIONAL LAND SURVEYOR'. It shall give the full
18 name of the registrant with his registration number and shall be signed by the Chairman, [and] the
19 Secretary/Treasurer and the Executive Board Administrator under the seal of the Board.

20 A properly entitled and endorsed identification card shall be issued with the certificate of
21 registration and reissued thereafter as prescribed by §32117 of this [Title] Chapter to each registrant
22 upon payment of the renewal fee.

23 Every registered engineer, architect or land surveyor having a place business or employment
24 within this jurisdiction shall display his certificate of registration in a conspicuous place in such
25 place of business or employment.

26 (b) The issuance of a certificate of registration by the Board shall be prima facie evidence that
27 the person named therein is entitled to all the rights, privileges, and responsibilities of an engineer,
28 architect or land surveyor while the said certificate remains unrevoked or unexpired.

29 (c) The Board shall issue to each applicant meeting the requirements of this [Title] Chapter a
30 certificate of "engineer intern" or "land surveyor intern" as applicable. The certificate issued to the
31 "engineer intern" or "land surveyor intern" does not authorize the practice of engineering or land
32 surveying and only indicates that his name has been recorded by the Board as having passed the
33 required examination.

34 (d) Each registrant hereunder shall, upon registration licensure, ~~obtain a stamp or seal of the~~
35 have a seal of a design authorized by the Board, bearing the registrant's name, registration number,
36 and the designation, "Professional Engineer", "Registered Architect" or "Professional Land
37 Surveyor". For Professional Engineers, the stamp or seal shall contain the specific discipline for
38 which he is authorized, the expiration date of the registrant, or a space within which the expiration
39 date must be written:

40 (1) The seal shall be an image ~~or~~, imprint ~~from a rubber stamp~~ or other medium
41 approved by the Board. Except for progress submittals, [W]whenever the seal is applied to a
42 final work product, the registrant's written signature ,and date shall be signed adjacent to the
43 seal with the statement "This work was prepared by me or under my [direct supervision]
44 responsible control". If the work product is not intended for construction, a statement to
45 that effect shall be placed on the document adjacent to the seal. A facsimile signature will
46 not be acceptable. Computer- generated signatures and dates are not acceptable.

47 (2) Seals must be a permanent mark on the document being sealed. The standard seal

1 must be used on all original tracings, blueprints, drawings, specifications, reports, and other
2 documents prepared by professional engineers, registered architects or professional land
3 surveyors.

4 (3) The seal and dated signature shall be placed on all technical submissions such as
5 specifications, reports, plats, drawings, plans, design information and calculations whenever
6 presented to a client or any public or government agency including government in-house
7 designs.

8 (4) The seal and dated signature shall be placed on all original copies, tracings or other
9 reproducible documents in such a manner that the seal and signature will be reproduced.
10 The application of the registrant's licensee's seal and signature shall constitute certification
11 that the work thereon was done by him or under his responsible control. In the case of
12 multiple sealings, the first or title page shall be sealed and signed by all involved. In
13 addition, each sheet shall be sealed and signed by the registrant or registrants responsible for
14 each sheet. In the case of an authorized firm, partnership or corporation, each sheet shall be
15 sealed and signed by the registrants involved. ~~The principal in responsible control~~ The
16 Responsible Managing Employee (RME) in charge of operations within the jurisdiction shall
17 sign, seal, and date the title or the first sheet.

18 (5) The seal and signature and date shall be used by registrants only when the work
19 being stamped was under the registrant's complete direction and responsible control,
20 provided that if the work was performed at an office outside of the locale in which the
21 registrant permanently resides, then the seal may be used only if the registrant supervised the
22 work on a full-time basis.

23 (6) In the case of temporary permit issued to a registrant licensee of another state or
24 jurisdiction, the registrant shall use his state of registration seal and shall affix his signature
25 and temporary permit number and date of issue to all his work.

26 (7) It shall be unlawful for a registrant to affix or permit his seal and signature, or
27 facsimile thereof, to be affixed to any document as above described after the expiration of a
28 certificate, or for the purpose of aiding or abetting any attempt to evade any provision of this
29 {Title} Chapter.

30 (8) Seals of Professional Engineers on Engineering Documents:

31 (i) The seal of a professional engineer shall be placed on each drawing,
32 specification, plan, report or other document which is in its final form and which
33 involves the practice of engineering as defined in this {Title} Chapter. A separate seal of
34 a professional engineer of the appropriate branch of engineering, as such branches are
35 designated on the various forms of professional engineer registration certificates, is
36 required for each portion of such document that involves a separate branch of
37 engineering registration certificates, is required for each portion of such document that
38 involves a separate branch of engineering, except as provided in Sub-item (ii) of this
39 item (8). For example, except as provided in Sub-item (ii) of this item (8), so long as
40 registration certificates classify 'civil engineering', 'structural engineering', 'mechanical
41 engineering' and 'electrical engineering' as different branches of engineering, the seal of
42 a professional engineer of the civil branch shall be required for each portion of an
43 engineering document involving civil work; the seal of a professional engineer of the
44 structural branch or civil branch shall be required for each portion of engineering
45 document involving structural work for any structure or building three (3) stories or less
46 in height; wherein the height of the stories shall be defined as not more than twelve (12)
47 feet, the seal of a professional engineer of the structural branch shall be required for each

1 portion of an engineering document involving structural work for any structure or
2 building higher than three (3) stories; the seal of a professional engineer of the
3 mechanical branch shall be required for each portion of an engineering document
4 involving mechanical work; and the seal of a professional engineer of the electrical
5 branch shall be required for each portion of an engineering document involving electrical
6 work.

7 (ii) The requirement of a separate seal for each portion of an engineering
8 document involving a separate branch of engineering is subject to the following
9 exceptions:

10 (aa) in the case of a document involving an individual single family
11 dwelling, two (2) family dwellings, or two (2) family dwellings in a subdivision, the
12 seal of a professional engineer in the civil branch or the seal of an architect shall be
13 sufficient;

14 (bb) in the case of a document involving work incidental to the practice of
15 engineering, the seal of any professional engineer, regardless of his branch of
16 engineering, or the seal of an architect shall be sufficient.

17 (cc) seal of a professional engineer of the mechanical branch is sufficient
18 for documents involving plumbing work, air-conditioning and ventilation, regardless
19 of the height of a building;

20 (dd) in the case of document involving the design of a fire sprinkler
21 system, a seal of a professional engineer in the ~~[mechanical]~~ fire protection branch
22 shall be required.

23 (ee) in the case of a document involving the structural portion of a site
24 adaptation of a pre-engineered structure or building, the seal of a professional
25 engineer of either the civil branch or the structural branch is sufficient; and

26 (ff) in the case of a document involving work for which more than one (1)
27 branch of engineering is qualified, other than those types of work provided for in
28 Sub-items (aa), (bb), (cc), (dd), and (ee) of this item (8), the Board shall promulgate
29 general guidelines for the sealing of such a document. The guidelines shall reflect
30 that there are often broad overlaps between the authorized practice of the various
31 branches of engineering.

32 (9) Seals of Architects.

33 (i) All technical submissions, such as drawings, specifications, plans, reports or
34 other documents, prepared by a registered architect or under his responsible control
35 shall bear his seal, which shall mean that the architect was in responsible control over
36 the content of such technical submissions during their preparation and has applied the
37 required professional standard of care. An architect may sign and seal technical
38 submissions, only if the technical submissions were: (1) prepared by the architect, or;
39 (2) prepared by persons under the architect's responsible control. ~~[The seal of an
40 architect shall be placed on each drawing, specification, plan, report or other
41 document which is in its final form and which involves work with respect to any
42 building which has as its principal purpose human occupancy or habitation, or which
43 involves any other aspect of the practice of architecture as defined in this Title.]~~

44 (ii) Notwithstanding the provisions of Sub-item (i) of this item (9), in the case of
45 a document involving an individual single family dwelling, a seal of either an
46 architect or a professional engineer of the civil engineering branch shall be sufficient.
47 Documents involving two (2) family dwellings, or a subdivision development with

1 single family and two (2) family dwellings, the seal of a professional engineer of the
2 civil engineering branch is sufficient.

3 (iii)The requirement contained in Sub-item (4 i) of this item (9) does not affect
4 the need for a seal of a professional engineer of the appropriate branch of engineering
5 for each portion of a document that involves a system of a separate branch of
6 engineering.

7 (10) Seals of Professional Land Surveyors:

8 (i) The seal of a Land Surveyor shall be placed on each drawing, plan, property
9 metes and bounds descriptions, computation sheets, reports and other documents in
10 their final form which involve the practice of land surveying, to wit:

11 (aa) any office offering to perform land surveys must have a licensed
12 professional land surveyor in charge of the operations, be available on a full time
13 basis with a 75% physical presence and must have full control of the survey
14 operation;

15 (bb) to further insure that field conditions of survey documents are in full
16 conformance with such survey, the surveyor of record is required to establish a field
17 reference point from which building corners, setbacks and other pertinent points may
18 be derived if and when improvements are contemplated on a property. This reference
19 point must remain in place and be protected from damage for the duration of the
20 construction of a project. Such reference point must be indicated as referenced on
21 the site plan of the project. It will be the surveyor's responsibility to follow setbacks
22 defined in the Zoning Law as may be required for building permit purposes; and

23 (cc) all documents prepared and certified by a professional land surveyor
24 shall be stamped with a statement under the seal stating: "I hereby certify that this
25 map was prepared by me or under my direct supervision, that it is based on a field
26 survey made in (insert date), in accordance with all applicable laws and regulations,
27 and that I am responsible for the accuracy of all data and information shown hereon.
28 I also certify that all the monuments are of the character and occupy the positions
29 indicated in this map".

30 (11) With respect to work incidental to the practice of engineering and work incidental to
31 the practice of architecture, the Board shall promulgate general guidelines which shall include
32 examples of incidental work and which shall set limitations on the permissible extent of such
33 incidental work. Such guidelines shall be consistent with items (8) and (9) of this Subsection
34 (d), including the requirements in those items for separate seals per branch of engineering and
35 for the seal of an architect in the case of a building which has as its principal purpose human
36 occupancy or habitation.

37 (12) An Engineer, Architect and Land Surveyor shall provide construction contract
38 administration when applications are made for building or construction permits involving the
39 public safety and health. The term "construction contract administration" means making periodic
40 visits to the site by a registered engineer, architect or land surveyor or authorized representatives
41 as the case may require, to observe the progress and quality of the executed work and to
42 determine, in general, if the work is proceeding in accordance with the contract documents. It is
43 not required that they make exhaustive or continuous on-site inspections to check the quality or
44 quantity of the work nor it is intended that the engineer, architect and land surveyor be
45 responsible for construction means, methods, techniques, sequences or procedures, or for safety
46 precautions and programs in connection with the work.

47 (13) Building Official: The Building Official charged with the responsibility of issuing

1 building permit, must be in possession of a signed/sealed set of plans and specifications.

2 **§32117. Expirations and Renewals.** (a) Certificates of registration and certificates of
3 authorization for corporations, partnerships, proprietorships and associations shall expire on the last
4 day of the month of September of each year, following their year of issuance and become invalid
5 after that date unless renewed by submission of appropriate forms as prescribed by the Board.

6 (1) Renewals of Certificates of Authorization for corporations, partnerships,
7 proprietorships and associations shall submit a clearance form from the Department of
8 Revenue and Taxation that they are current on their taxes with the Government of Guam, or
9 have an agreement with Department of Revenue and Taxation for their back taxes. Such
10 clearance shall be submitted with their renewal application form.

11 (2) ~~[Such]~~ Expired Certificates of Registration ~~[license]~~ may be renewed at any time
12 within ~~[six (6) months]~~ sixty (60) days following the expiration date without submission of
13 “Application for Reinstatement” upon payment of the renewal fee plus penalty fee as
14 prescribed by the Board. ~~[Upon failure to]~~ Any individual registrant who fails to renew
15 within ~~six (6) months~~ (60) sixty days after the date of expiration, ~~[the licensee]~~ shall be
16 required to apply for a reinstatement of registration, pay the prescribed (back registration and
17 penalty) fees as prescribed by the Board. ~~[and in circumstances submit an application for~~
18 ‘Reinstatement of Registration’ form.]

19 (3) Certificates of Authorization may be renewed anytime prior to the expiration date. A
20 Certificate of Authorization is considered null and void if not renewed before the expiration
21 date.

22 (b) It shall be the duty of the Secretary/Treasurer of the Board to notify every person
23 registered under this ~~[Act]~~ Chapter, and every corporation, partnership, proprietorship and
24 association holding a certificate of authorization under this ~~[Act]~~ Chapter, of the date of the
25 expiration of said certificate of registration or certificate of authorization, and the amount of the fee
26 required for its renewal. Such notice shall be mailed to the registrant or corporation, partnership,
27 proprietorship or association at his/her or its last known address at least one (1) month in advance of
28 the date of the expiration of said certificate. Renewal may be effected at any time prior to or during
29 the month of September by payment of a fee as established by the Board. ~~[Renewal of an expired~~
30 certificate may be effected under rules prescribed by the by-laws.]

31 (c) A certificate of registration shall expire upon the death of a registrant.

32 **§32118. Replacement of Certificates.** (a) Replacement of Certificates. A new certificate
33 of registration, to replace any certificate lost, destroyed, or mutilated, may be issued subject to the
34 rules of the Board and upon payment of the prescribed fee and such certificate shall be stamped or
35 marked “duplicate”.

36 (b) Re-issuance of Certificates. The Board for reasons it deems sufficient may reissue a
37 certificate of registration to any person whose certificate has been revoked providing four (4) or
38 more members of the Board vote in favor of such re-issuance.

39 **§32119. Public Works.** Government employees shall not engage in the practice of
40 engineering, architecture, or land surveying involving either public or private property without the
41 project being under the direct charge and supervision of a registered engineer, architect or land
42 surveyor as provided by this ~~[Act]~~ Chapter.

43 **§32120. Disciplinary Action -- Revocation, Suspension, Refusal to Issue, Restore, or**
44 **Renew, Probation, Fine and/or Reprimand.** ~~[Powers]~~ (a) The publication of the rules of conduct
45 for professional engineers, architects and land surveyors as provided for in §32109 or this ~~[Title]~~
46 ~~Chapter~~ shall constitute due notice to all registrants.

47 (b) The Board shall have the power, duty and authority to suspend, refuse to renew or revoke a

1 certificate of registration, or a certificate of authorization or to reprimand, fine or any combination
2 thereof, or levy a civil penalty in an amount determined by the Board or not [less] more than Five
3 Thousand Dollars (\$5,000) for each offense against any engineer, architect, land surveyor or any
4 individual and/or business firm who is found guilty of:

- 5 (1) the practice of any fraud or deceit in obtaining or attempting to obtain or renew a
6 certificate of registration or certificate of authorization;
- 7 (2) any gross negligence, incompetency, or misconduct, in the practice of his profession,
8 engineering, architecture or land surveying;
- 9 (3) conviction of or entry of a plea of guilty or nolo contendere to any crime which is a
10 felony, whether related to practice or not; and conviction of or entry of a plea of guilty to
11 any crime, whether a felony, misdemeanor, or otherwise, an essential element of which is
12 dishonesty or which is directly related to the practice of engineering, architecture or
13 surveying;
- 14 (4) any felony or any crime involving moral turpitude, in which case a certified copy of the
15 record of conviction shall be conclusive evidence thereof;
- 16 (5) failure to comply with any of the provisions of this Chapter or violation of any of the
17 rules or regulations pertaining thereto [of professional conduct adopted and promulgated
18 by the Board];
- 19 (6) discipline by another jurisdiction, territory, the District of Columbia, foreign country, the
20 United States government, or any governmental agency, if at least one of the grounds for
21 discipline is the same or substantially equivalent to those contained in this section.
22 [violation of any provision of this Title];
- 23 (7) failure to provide information requested by the Board as a result of a formal or informal
24 complaint to the Board which would indicate a violation of this Chapter;
- 25 (8) knowingly making false statements or signing false statements, certifications, or
26 affidavits to include payment;
- 27 ~~(6)~~(9) aiding [and] or assisting [abetting] another person in violating any provision of this
28 Chapter or the rules or regulations pertaining thereto [in the practice of professional
29 engineering, architecture, or land surveying any person not duly authorized to practice
30 engineering, architecture, or land surveying under the provisions of this Title];
- 31 ~~(7)~~(10) violating any terms of probation imposed by the Board or using a seal, or practicing
32 engineering, architecture or land surveying while the registrants license is suspended,
33 revoked, non-renewed;
- 34 (11) signing, affixing or permitting his seals to be affixed to any specifications, reports,
35 drawings, plans, plats design information, construction documents or calculations, surveys,
36 or revisions thereof which have not [specifications, or drawings that were not] been prepared
37 by the licensee him or under the licensee's [responsibility or direct his personal supervision,
38 by his employee or subordinate] responsible control;
- 39 (12) [failure to provide information requested by the Board as a result of a formal or
40 informal complaint to the Board which would indicate a violation of this Act;
- 41 ~~(9)~~(13) engaging in dishonorable, unethical, or unprofessional conduct of a character
42 likely to deceive, defraud, or harm the public;
- 43 (13) providing false testimony or information to the Board;
- 44 (14) [convictions for] habitual intoxication or addiction to the use of drugs or alcohol so
45 as to endanger health, safety and interest of the public by impairing skill and care in
46 professional services; or
- 47 ~~(10)~~(15) providing engineering, architectural or surveying services outside of the licensee's

1 areas of competence. Licensees must demonstrate by education or experience that they are
2 competent to practice in the subject field in question. ~~practicing or offering to practice~~
3 ~~engineering, architecture or land surveying without a current license from this Board.~~

4 (c) A record [~~or~~] of conviction of any of the offenses provided in paragraph (b)(1) through
5 (b)(10)(16) above shall be conclusive evidence thereof.

6 (d) In addition to any other penalty provided in this Section, [T]the Board shall have the power
7 to: revoke, suspend, place on probation, fine and/or reprimand, or refuse to issue, restore or renew,
8 the certificate of authorization of any firm where one or more of its officers, directors, partners,
9 members, or managers have been found guilty of any conduct which would constitute a violation
10 under the provisions of this Section.

11 (1) revoke a certificate of authorization, or

12 (2) to suspend a certificate of authorization for a period of time not exceeding two (2) years
13 of any corporation, partnership or association where one or more of his officers or
14 principals have been found guilty under this Section, or

15 (3) assess fines against the firm.

16 (e) [Each day of continued violation may constitute a separate offense.] In addition to or in lieu
17 of any other penalty provided in this Section, any licensee who violates a provision of this
18 Chapter, or any rule or regulation pertaining thereto, a civil penalty in an amount determined
19 by the Board or not more than \$5,000 for each offense.

20 (1) Each day of continued violation may constitute a separate offense.

21 (2) In determining the amount of civil penalty to be assessed pursuant to this Section, the
22 Board may consider such factors as the following:

23 (i) whether the amount imposed will be substantial economic deterrent to the
24 violation;

25 (ii) the circumstances leading to the violation;

26 (iii) the severity of the violation and the risk of harm to the public.

27 **§32121. Disciplinary Action Procedures.** (a) Any person may prefer charges of fraud,
28 deceit, gross negligence, incompetence, misconduct, or violation of the rules of professional
29 conduct, against any individual registrant, or against any corporation, partnership or association
30 holding a certificate of authorization. Such charges shall be in writing and shall be sworn to by the
31 person or persons making them and shall be filed with the Secretary/Treasurer of the Board.
32 [Furthermore, notwithstanding Subsection (g) of this Section, t]The Board may summarily take
33 action without compliance with the Administrative Adjudication Law, to suspend [~~or~~-revoke], or
34 deny a certificate of registration or authorization from any individual registrant, corporation,
35 partnership or association when it has received or obtained either a record of conviction or notice via
36 news media and/or radio that said registrant, corporation, partnership or association has been found
37 guilty of a crime.

38 (b) All charges, unless dismissed by the Board as unfounded or trivial, shall be heard by
39 the Board within three (3) months after the date on which the charges have been determined to have
40 merit by the Executive Board Administrator [~~or Board Investigator~~]. At the Board's discretion, an
41 extension of time up to an additional three (3) months for the hearing may be granted upon the
42 request of either party. The hearing shall be conducted in accordance with the requirements of the
43 Administrative Adjudication Law.

44 (c) The time and place for said hearing shall be fixed by the Board, and a copy of the
45 charges, together with a notice of the time and place of hearing, shall be [~~personally~~] served on or
46 mailed to the [~~last known address of such~~] individual registrant, or corporation, partnership, or
47 association holding a certificate of authorization, or to his designated counsel in accordance with the

1 requirements of the Administrative Adjudication Law. [at least thirty (30) days before the date fixed
2 for the hearing.] At any hearing, the accused shall have the right to appear in person or by counsel,
3 or both, to cross-examine witnesses in his or its defense, and to produce evidence and witnesses in
4 his own defense. If the accused person fails or refuses to appear, the Board may proceed to hear and
5 determine the validity of the charges.

6 (d) If, after such hearing, a majority of the Board votes in favor of sustaining the
7 charges, the Board shall reprimand, suspend, refuse to renew, or revoke the certificate of registration
8 or certificate of authorization. ~~[The Board, for reasons it may deem sufficient, may reissue a~~
9 ~~certificate of registration to any person whose certificate has been revoked.]~~

10 (e) Any individual registrant having a certificate of registration, or corporation,
11 partnership or association holding a certificate of authorization, aggrieved by any action of the
12 Board in denying, suspending, refusing to renew or revoking his certificate of registration, or its
13 certificate of authorization, may appeal therefrom to the proper court under normal civil procedures.

14 (f) The Board may, upon petition of a formerly licensed individual registrant or
15 corporation, partnership or association ~~[holding a certificate of authorization]~~, reissue a certificate of
16 registration or authorization, provided that ~~[a majority of the members of the Board]~~ not less than
17 four (4) members of the seven (7) member Board, vote in favor of such issuance.

18 (g) No certificate of registration or authorization shall be suspended, revoked or denied
19 renewal by the Board, except after a hearing in accordance with the provisions of the Administrative
20 Adjudication Law.

21 **§32122. Violations and Penalties. (a) Civil Penalties for Non-Licensees:**

22 (1) In addition to any other provision of law, the Board may enter an order assessing a
23 civil penalty against any person, firm, partnership, or corporation found guilty by the Board
24 of:

25 (i) Engaging in the practice or offer to practice of engineering, architecture or
26 land surveying in this jurisdiction without being licensed in accordance with the
27 provisions of this Chapter;

28 (ii) Using or employing the words “engineer”, “engineering”, “architect”,
29 “architecture”, “surveyor”, “surveying”, or any modification or derivative thereof in its
30 name or form of business activity, except as authorized in this Chapter;

31 (iii) Presenting or attempting to use the certificate of licensure or the seal of
32 another licensed engineer, architect or land surveyor;

33 (iv) Giving false or forged evidence of any kind to the Board or any member
34 thereof in obtaining or attempting to obtain a certificate of licensure;

35 (v) Falsely impersonating any other licensed engineer, architect or land surveyor
36 of like or different name; or

37 (vi) Using or attempting to use an expired, suspended or revoked or non-existent
38 certificate of licensure or authorization;

39 (2) A civil penalty levied under this Section may not be less than \$5,000 for each
40 offense.

41 (3) Each day of continued violation may constitute a separate offense.

42 (4) In determining the amount of civil penalty to be assessed pursuant to this Section, the
43 Board may consider such factors as the following:

44 (i) Whether the amount imposed will be a substantial economic deterrent to the
45 violation;

46 (ii) The circumstances leading to the violation;

47 (iii) The severity of the violation and risk of harm to the public;

1 (iv) The economic benefits gained by the violator as a result of non-compliance; and

2 (v) The interest of the public.

3 (5) Before issuing an order under this Section, the Board shall provide the person written
4 notice and opportunity to request a hearing on the record, which need not be in accordance
5 with the provisions of the Administrative Adjudication Law.

6 (6) A person aggrieved by the levy of a civil penalty under this Section may file an
7 appeal with the Superior Court for judicial review of the penalty aforementioned.

8 (7) If a person fails to pay a civil penalty within thirty (30) days after the entry of an
9 order under Subsection (a)(1) of this Section, or if the order is stayed pending an appeal,
10 within ten (10) days after the court issues a final judgment in favor of the Board of an order
11 appealed in accordance with Subsection (a)(6) of this Section, the Board shall notify the
12 Attorney General. The Attorney General may commence a civil action to recover the
13 amount of the penalty, plus attorney's fees and costs.

14 (8) An action to enforce an order under this Section may be combined with an action of
15 an injunction.

16 (b) Criminal Offenses

17 (i) Any person who shall practice, or offer to practice, engineering, architecture
18 or land surveying on Guam without being registered in accordance with the provisions of
19 this [Title] Chapter, or any person, firm, partnership, organization, association, corporation
20 or other entity using or employing the words, 'Engineer' or 'Engineering', 'Architect' or
21 'Architecture', 'Land Surveyor' or 'Land Surveying' or any modification or derivative
22 thereof in its name or form of business or activity except as authorized in this [Title]
23 Chapter, or any person presenting or attempting to use the certificate of registration or the
24 seal of another, or any person who shall give any false or forged evidence of any kind to the
25 Board or to any member thereof if obtaining or attempting to obtain a certificate of
26 registration, or any person who shall falsely impersonate any other registrant of like or
27 different name, or any person who shall attempt to use an expired or revoked or non-existent
28 certificate of registration, or who shall practice or offer to practice when not qualified, or any
29 person who falsely claims that he is registered under this [Title] Chapter, or any person who
30 shall violate any of the provisions of this [Title] Chapter, shall be guilty of a petty
31 misdemeanor for the first offense and a third degree felony for the second or any subsequent
32 offenses.

33 (b)(ii) It shall be the duty of all duly constituted officers of [the territory] Guam to enforce
34 the provisions of this [Title] Chapter and to prosecute any person violating same.

35 (e)(iii) The Attorney General of Guam shall act as legal advisor to the Board and render
36 such legal assistance as may be necessary in carrying out the provisions of this [Act]
37 Chapter. The Board may employ independent counsel and necessary assistance to aid in the
38 enforcement of this [Title] Chapter and the compensation and expenses therefor shall be paid
39 from funds of the Board.

40 (d)(iv) Any person who is not registered as a professional engineer, architect or land
41 surveyor under this [Title] Chapter and who, by written or verbal claim, sign, advertisement,
42 letterhead, card or in any other way represents himself to be a professional engineer, architect or
43 land surveyor or through the use of some other title implies that he is a professional engineer,
44 architect or land surveyor or that he is registered under this [Title] Chapter or holds himself out
45 as able to perform any engineering service or work or any other service designated by the
46 practitioner which is recognized as engineering, architecture or land surveying shall be guilty of
47 a petty misdemeanor.

1 **§32123. Certificate of Authorization [Certificates] (COA).** (a) The practice of or offer to
2 practice engineering, architecture or land surveying as defined in §32103 of this [Title] Chapter by
3 individual engineers, architects or land surveyors registered under this [Title] Chapter, or b[e]y
4 individuals lawfully practicing under §32124 of this [Title] Chapter through a corporation
5 (including professional corporations), partnership (including registered limited liability partnership),
6 or limited liability company is permitted, subject to the provisions of this [Title] Chapter.

7 A corporation, partnership, proprietorship or limited liability company holding itself out or
8 performing any of the services involved in the practice of engineering, architecture or land
9 surveying must ~~[be issued]~~ obtain a certificate of authorization ~~[by]~~ from the Board. The Board may
10 issue a Certificate of Authorization to such corporation, partnership, proprietorship or limited
11 liability company; provided that:

12 (i) one (1) or more of the directors of a corporation; one (1) or more of the general partners of a
13 partnership; the sole proprietor of a proprietorship; or one or more of the managers of a
14 limited liability company are registered under this [Title] Chapter or the engineering,
15 architecture or land surveying registration law of another jurisdiction within the United
16 States, District of Columbia or its Territories; and

17 (ii) ~~[further provided that]~~ any agreement to perform such services shall be executed on behalf of
18 the corporation, partnership, limited liability company by the director or directors, general
19 partner or partners, sole proprietor, or by the manager or managers who are registered on
20 Guam and who exercises responsible control over the particular services contracted for by
21 the corporation, partnership, proprietorship or limited liability company.

22 The requirements of this [Title] Chapter shall not prevent the employees of such corporations,
23 partnerships, proprietorships or limited liability companies from performing engineering,
24 architecture or land surveying services; provided that all technical submissions involving the
25 practice of engineering, architecture or land surveying as defined in this [Title] Chapter when
26 issued, or filed for public record, shall be dated, and bear the seal and signature of the professional
27 engineer, architect, or professional land surveyor under whose responsible control it was prepared.

28 (b) A corporation, partnership, proprietorship or limited liability company desiring a certificate
29 of authorization shall furnish the Board such information about its organization and activities as the
30 Board may require by regulation and to designate the individual or individuals duly registered to
31 practice engineering (by discipline), architecture or land surveying on Guam who shall be in
32 responsible control of the practice as the Responsible Managing Employee (RME).

33 (c) A multi-discipline firm who has more than one (1) designated RME shall be required to have
34 a minimum of one (1) RME available on a full time basis with 75% physical presence and who must
35 have full control over the particular services contracted for by the firm. In the event there shall be a
36 change in any of these persons during the year, such change shall be reported in the form as issued
37 by the Board within thirty (30) days after the effective date of said change.

38 If all of the requirements of this Section are met, the Board may issue a certificate of
39 authorization to such corporation, partnership, proprietorship or limited liability company
40 authorizing such organizations to contract for and to collect fees for furnishing engineering,
41 architecture or land surveying services. All off-island firms shall be required to maintain a local
42 office under the control of at least one (1) Responsible Managing Employee who shall be ~~[available~~
43 ~~on a full time basis with a seventy five (75%) physical presence]~~ in full control of the operations of
44 the firm. The COA shall be displayed in a conspicuous place in such business.

45 No such corporation, partnership, proprietorship or limited liability company shall be relieved of
46 responsibility for the conduct or acts of its agents, employees or officers by reason of its compliance
47 with the provisions of this Section, nor shall any individual practicing engineering, architecture or

1 land surveying services performed by reason of his employment or relationship with such
2 corporation, partnership, proprietorship or association.

3 A certificate of incorporation shall not be issued to an applicant for a registration as a foreign
4 firm to a firm which includes among the objectives for which it is established any of the words
5 engineer', 'engineering', 'architect', 'architectural', 'surveyor', 'land surveying', or any
6 modification or derivation thereof, unless the Board has issued for the said applicant a certificate of
7 authorization or letter indicating the eligibility of such applicant to receive such a certificate. The
8 firm shall supply such certificate or letter from the Board with the applicant's application for
9 incorporation, [~~or registration~~] licensure or authorization.

10 (d) The responsible department within the government of Guam shall decline to register any
11 trade name or service mark which includes such words as set forth in Subsection [©] (c) of this
12 Section, or modification or derivatives thereof, in its firm name or logo type, except those firms
13 holding authorization certificate under the provisions of this Section.

14 (e) An engineer, architect or land surveyor who renders occasional part-time or consulting
15 engineering, architectural or land surveying services to or for a firm may not, for the purposes of
16 this Section, be designated as being responsible for the professional activities of the firm.

17 (f) This section shall not require a certificate of authorization for a firm performing engineering,
18 architecture or land surveying for the firm itself or a parent or subsidiary of said firm.

19 (g) The certificate of authorization shall be renewed as herein before provided in Section
20 §32117(a).

21 **§32124. Exclusive Jurisdiction of the Board -- Restriction on requirement for additional**
22 **licenses or fees.** No local jurisdiction shall have the authority to require additional licensure or to
23 require payment of any fees in order for any professional engineer, architect or land surveyor to
24 engage in the practice of the profession for which the Board has issued a license.

25 **§32125. Contract Law Language.** (a) A Professional Engineer, Architect or Land Surveyor
26 shall use a written contract when contracting to provide professional engineering, architecture, land
27 surveying or construction management services to a client pursuant to this Chapter. The written
28 contract shall be executed by the professional engineer, architect or land surveyor and the client, or
29 his representative, prior to the professional engineer, architect or land surveyor commencing work,
30 unless the client knowingly states in writing that work may commence before the contract is
31 executed. The written contract shall include, but not limited to, all of the following:

32 (1) A description of the services to be provided to the client by the professional engineer,
33 architect or land surveyor.

34 (2) A description of any basis of compensation applicable to the contract, and the method of
35 payment agreed upon by the parties.

36 (3) The name, address, and license or certificate number of the professional engineer,
37 architect or land surveyor, and the name and address of the client.

38 (4) A description of the procedure that the professional engineer, architect or land surveyor
39 and the client will use to accommodate additional services.

40 (b) This section shall not apply to any of the following:

41 (1) Professional engineering, architectural or land surveying services rendered by a
42 professional engineer, architect or land surveyor for which the client will not pay
43 compensation.

44 (2) A professional engineer, architect or land surveyor who has a current or prior contractual
45 relationship with the client to provide engineering, architectural or land surveying services,
46 and that client has paid the professional engineer, architect or land surveyor all of the fees
47 that are due under the contract.

1 (3) If the client knowingly states in writing after full disclosure of this section that a contract
2 which complies with the requirements of this section is not required.

3 (c) “Written Contract” as used in this Section includes a contract that is in electronic form.

4 **§3212[4]6. Exemption Clause.** This [~~Aet~~] Chapter shall not be construed to prevent the practice
5 by:

6 (a) **Temporary Permits.**

7 (1) **Professional Engineer/Architect** — The practice or offer to practice engineering or
8 architecture by a person not a resident of or having no established place of business on Guam,
9 provided such person is legally qualified by registration to practice engineering or architecture
10 as defined in §32103 of this Title, in his own state or territory and, in the case of a person
11 seeking to practice architecture, who has a current certificate of registration issued by the
12 National Council of Architectural Registration Boards. Such person shall make application to
13 the Board in writing and after payment of a fee as prescribed in the by-laws may be granted
14 written permit for a definite period of time not to exceed one (1) year to do a specific job,
15 provided, however, that no right to practice engineering or architecture shall accrue to such
16 applicant with respect to any other work not set forth in said permit.

17 For Civil Engineers only: The applicant must have passed the CSCS examination.

18 (2) **Land Surveyor.** The practice of land surveying under a temporary permit by a person
19 registered as a land surveyor in another state is not considered to be in the best interest of the
20 public and therefore shall not be granted.

21 (b) **Employees and Subordinates.** [~~T~~]the work of an employee or a subordinate of a person
22 holding a certificate of registration under this [~~Title~~] Chapter, or an employee of a person
23 practicing lawfully under Subsection (a) of this Section; provided such work does not include
24 final engineering, architecture or land surveying designs or decisions and is done under the
25 direct supervision of and verified by a person holding certificate of registration under this ~~Title~~
26 Chapter or a person practicing lawfully under Subsection (a) of this Section.

27 (c) **Practice of Construction Management.** Any service or work, the adequate performance of
28 which involves professional construction inspection or observation, certifications, shop drawing
29 review and approval, engineering calculations, revising construction details, construction
30 interpretation, etc. as defined in §32103 of this [~~Title~~] Chapter.

31 (d) an employee, agent or officer of any agency, department, autonomous agency or public
32 corporation of the government of Guam who are reviewing drawings and specifications for
33 compliance with building codes, regulations or standards of the said entity if the drawings and
34 specifications have been signed and sealed by a professional architect o professional engineer or
35 the preparation of the drawings. In this paragraph, “codes” includes codes relating to
36 building,mechanical, plumbing, electrical, utility, and fire standards;

37 (e) any officer, agent or employee of an agency, department, autonomous agency or public
38 corporation of the government of Guam engaged in the practice of locating, plotting or mapping
39 the location of government facilities by whatever means aside from the identification of
40 boundaries;

41 (f) any officer or employee of an agency, department, autonomous agency or public corporation
42 of the government of Guam building trades crafts, earthwork, grounds keeping, or nursery
43 operations, and superintendents, supervisors, or inspectors in the performance of their
44 customary duties;

45 (g) a contractor performing work designed by a professional architect, engineer, or landscape
46 architect or the supervision of the construction of the work as a supervisor or superintendent for
47 a contractor who is acting on behalf of an agency, department, autonomous agency or public

1 corporation of the government of Guam.

2 **§3212[5]7. Duties of Recorders.** It shall be unlawful for the recorder of deeds or the civil
3 registrar of titles to file or record any map, plat, survey or other documents within the definition of
4 land surveying which do not have impressed thereon and affixed thereto the personal signature and
5 seal of the [~~registered~~] professional land surveyor by whom or under whose direct supervision the
6 map, plat, survey or other documents were prepared.

7 **§3212[6]8. Invalid Sections.** If any of the provisions of this [~~Aet~~] Chapter, or if any rule,
8 regulation or order thereunder, or if the application of such provision to any person or circumstance
9 shall be held invalid, the remainder of this [~~Aet~~] Chapter and the application of such provision of
10 this [~~Aet~~] Chapter or such rule, regulation or order to persons or circumstances, other than those as
11 to which it is held invalid, shall not be affected thereby.

12 **§3212[7]9. Effective Date.** This law shall take effect thirty (30) days from the date of passage.”