

I MINA 'BENTE NUEBI NA LIHESLATURAN GUÅHAN
2008 (Second) REGULAR SESSION

Bill No. 460 (EC)

Introduced by:

J.V. Espaldon



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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.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

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 Chapter 32 of Division 3, Title 22, Guam Code Annotated is repealed and re-enacted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

4 "CHAPTER 32
5 THE PROFESSIONAL ENGINEERS, ARCHITECTS
6 AND LAND SURVEYORS LAW (PEALS)

7 §32101. NAME. This [title] Chapter may be cited as the *Professional Engineers, Architects*
8 *and Land Surveyors Law*.

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

20 §32103. DEFINITIONS.

21 (a) Engineer.

- 22 (1) Engineer — The term *Engineer*, within the intent of this [Act] Chapter shall mean a
23 person who, by reason of his special knowledge and use of the mathematical,
24 physical and engineering sciences and the principles and methods of engineering
25 analysis and design, acquired by engineering education and engineering experience,
26 is qualified to practice engineering.
- 27 (2) Professional Engineer — The term *Professional Engineer*, as used in this [Act]
28 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
30 Surveyors as a Professional Engineer.
- 31 (3) Professional Engineer, Emeritus — The term *Professional Engineer, Emeritus* as
32 used in this Chapter, shall mean a person who is a Professional Engineer, Retired,
33 and who is sixty five (65) years of age; and has been a resident of Guam for at least
34 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, Professional

1 Engineer, Emeritus.

2 (4) Professional Engineer, Retired ---- The term Professional Engineer, Retired as used
3 in this Chapter, shall mean a person who has been duly licensed as a professional
4 engineer by the Board and who chooses to relinquish or not to renew a license and
5 who applies to and is approved by the Board to be granted the use of the honorific
6 title, Professional Engineer, Retired.

7 ~~[(3)]~~(5) Engineer Intern — The term Engineer Intern, as used in this [Aet] Chapter, shall
8 mean a person who complies with the requirements for education, experience and character,
9 and has passed an examination in the fundamental engineering subjects, as provided in
10 §32113 and §32115 of this [Aet] Chapter.

11 ~~[(4)]~~ (6) Practice of Engineering — The term Practice of Engineering, as used in this
12 [Title] Chapter, means any service or creative work, the adequate performance of which
13 requires engineering education, training, and experience in the application of special
14 knowledge of the mathematical, physical, and engineering sciences to such services or
15 creative work as consultation, investigation, expert technical testimony, evaluation,
16 planning, design, ~~[construction management of engineering works and systems, planning the~~
17 ~~use of land and waters, engineering teaching of advanced engineering subjects or courses~~
18 ~~related thereto, engineering surveys, and the inspection of construction for the purpose of~~
19 ~~assuring compliance with drawings and specifications; any of which embraces such services~~
20 ~~or work either public or private, in connection with any utilities, structures, buildings,~~
21 ~~machines equipment, processes, work systems, or project and including such architectural~~
22 ~~work as may be incidental to the practice of engineering, industrial or consumer products or~~
23 ~~equipment of a control systems, communications, mechanical, electrical, hydraulic,~~
24 ~~pneumatic or thermal nature, insofar as they involve safeguarding life, health or property,~~
25 ~~and including such other professional services as may be necessary to the planning, progress~~
26 ~~and completion of any engineering services.]~~ and design coordination of engineering works
27 and systems, planning the use of land, air and water, teaching of advanced engineering
28 subjects, performing engineering and studies and the review and/or management of
29 construction for the purpose of monitoring and/or ensuring compliance with drawings and
30 specifications; any of which embraces such services of work, either public or private, in
31 connection with any utilities, structures, buildings, machines, equipment, processes, work
32 systems, projects, communication systems, transportation systems, and industrial or
33 consumer products, or equipment of a control systems, communications, mechanical,
34 electrical, hydraulic, pneumatic, chemical, environmental or thermal nature, insofar as they
35 involve safeguarding life, health, or property, and including such other professional services
36 as may be necessary to the planning, progress, and completion of any engineering services.

37 Design coordination includes the review and coordination of those technical submissions
38 prepared by others, including as appropriate and without limitation, consulting engineers,
39 architects, landscape architects, surveyors, and other professionals working under the
40 direction of the engineer.

41 Engineering surveys include all survey activities required to support the sound
42 conception, planning, design, construction, maintenance, and operation of engineered
43 projects but exclude topographic surveying and mapping, construction layout, the surveying
44 of real property for the establishment of land boundaries, rights-of-way, easements, and the
45 dependent or independent surveys or resurveys of the public land survey system.

46 A person shall be construed to practice or offer to practice engineering, within the
47 meaning and intent of this Chapter, who practices any branch of the profession of

1 engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other
2 way represents themselves to be a professional engineer, or through the use of some other
3 title implies that they are a professional engineer or that they are licensed under this Chapter;
4 or who hold themselves out as able to perform, or who does perform any engineering service
5 or work or any other service designated by the practitioner which is recognized as
6 engineering.

7 ~~(5)~~(7) Consulting Engineer — The term *Consulting Engineer*, as used in this [Title]
8 Chapter, means a professional engineer whose principal occupation is the independent
9 practice of engineering; whose livelihood is obtained by offering engineering services to the
10 public; who services clients as an independent fiduciary; who is devoid of public,
11 commercial and product affiliation that might tend to infer a conflict of interest; and who is
12 cognizant of his public and legal responsibilities, and is capable of discharging them.

13 (b) Architect.

14 (1) Architect — The term *Architect*, as used in this [Act] Chapter, shall mean a person,
15 who by reason of his knowledge of the mathematical, and physical sciences, and the
16 principles of architecture and architectural engineering acquired by professional education
17 and practical experience is qualified to engage in the practice of architecture and who has
18 been duly registered and licensed by the Guam Board of Registration for Professional
19 Engineers, Architects and Land Surveyors as an Architect.

20 (2) Practice of Architecture — The term *Practice of Architecture*, as used in this [Title]
21 Chapter, means any service or creative work, the adequate performance of which requires
22 architectural education, training and experience and the application of the mathematical and
23 physical sciences and the principles of architecture and architectural engineering to such
24 professional services or creative work as consultation, investigation, evaluation, planning,
25 design, construction management, [or] supervision or observation of construction for the
26 purpose of assuring compliance with specifications and design in connection with any
27 building which has as its principal purpose human occupancy or habitation, any other
28 building, or any monument, structure, waterfront development, site development or project
29 including topographic work, grading and engineering incidental to the performance of any
30 architectural service or other services recognized by educational authorities as architecture.

31 (3) Registered Architect — The term *Registered Architect*, as used in this Act, shall
32 mean [a] ~~the person who has been duly registered and licensed by an Architect holding a~~
33 current registration with the Guam Board of Registration for Professional Engineers,
34 Architects and Land Surveyors as a Registered Architect.

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

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

44 (c) Landscape Architect

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

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

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

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

23 ©(d) Land Surveyor.

24 (1) Land Surveyor — The term ‘Land Surveyor’, as used in this [Aet] Chapter, shall
25 mean a person who is knowledgeable in the technique of measuring land, educated in the
26 basic principles of mathematics, the related physical and applied sciences, and relevant
27 requirements of law for adequate evidence and all requisite to the surveying of a real
28 property and engaged in the practice of land surveying as herein defined. ~~and has been duly~~
29 ~~registered and licensed by the Guam Board of Registration for Professional Engineers,~~
30 ~~Architects and Land Surveyors as a Land Surveyor.~~

31 (2) Professional Land Surveyor — The term *Professional Land Surveyor*, as used in this
32 [Title] Chapter, shall mean a person who [has been] is duly registered and licensed by the
33 Guam Board of Registration for Professional Engineers, Architects and Land Surveyors as a
34 Professional Land Surveyor, and who is a professional specialist in the technique of
35 measuring land, educated in the basic principles of mathematics, the related physical and
36 applied sciences, and the relevant requirements of law for adequate evidence and all requisite
37 to surveying of real property, and engaged in the practice of surveying as herein defined.

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

44 (4) Professional Land Surveyor, Retired — the term *Professional Land Surveyor,*
45 *Retired* as used in this Chapter shall be a person who has been duly licensed as a
46 professional land surveyor by this Board and who chooses to relinquish or not to renew a
47 license and who applies to and is approved by the Board to be granted the use of the

1 honorific title, *Professional Land Surveyor, Retired.*

2 ~~[(3)](5)~~ Land Surveyor Intern — ~~[t]The term *Land Surveyor Intern*, as used in this~~
3 ~~[Title] Chapter~~, means a person who has qualified for, taken and passed the land surveyor
4 intern examinations as provided in this ~~[Title] Chapter~~.

5 ~~[(4)] (6)~~ Practice of Land Surveying — ~~The term *Practice of Land Surveying*, as used in this~~
6 ~~[Title] Chapter~~, ~~[means any service or work, the adequate performance of which involves the~~
7 ~~application of special knowledge of the principles of mathematics, the related physical and~~
8 ~~applied sciences, and the relevant requirements of law for adequate evidence to the act of~~
9 ~~measuring and locating lines, angles, elevations, natural and man-made features in the air, on the~~
10 ~~surface of the earth, within the underground workings, and on the beds of bodies of water for~~
11 ~~the purposes of determining areas and volumes, for the monumenting of property boundaries,~~
12 ~~and for the platting and layout of lands and subdivisions thereof, including the topography,~~
13 ~~alignment and grades of streets, and for the preparation and perpetuation of maps, record plats,~~
14 ~~field note records and property descriptions that represent these surveys, including construction~~
15 ~~management related services such as new construction layouts and post construction survey~~
16 ~~verification of as-built conditions of horizontal and vertical works.] shall mean providing, or~~
17 ~~offering to provide, professional services using such sciences as mathematics, geodesy, and~~
18 ~~photogrammetry, and involving both (1) the making of geometric measurements and gathering~~
19 ~~related information pertaining to the physical and or legal features of the earth, improvements on~~
20 ~~the earth, the space above, on, or below the earth, and (2) providing, utilizing or developing the~~
21 ~~same into survey products, such as graphics, data, maps, plans, reports, descriptions, or projects.~~
22 Professional services include acts of consultation, investigation, testimony evaluation, expert
23 technical testimony, planning, mapping, assembling and interpreting gathered measurements and
24 information related to any one or more of the following:

- 25 a. Determining by measurement the configuration or contour of the earth's surface or
26 the position of fixed objects thereon.
- 27 b. Determining by performing geodetic surveys the size and shape of the earth or the
28 position of any point on the earth.
- 29 c. Locating, relocating, establishing, or retracing property lines or boundaries of any
30 tract of land, road, right-of-way, or easement.
- 31 d. Marking any survey for the division, subdivision, or consolidation of any tract(s) of
32 land.
- 33 e. Locating or laying out alignments, positions, or elevations for the construction of
34 fixed works.
- 35 f. Determining, by the use of principles of surveying, the position for any survey
36 monument (boundary or non-boundary) or reference point; establishing or replacing
37 any such monument or reference point.
- 38 g. Creating, preparing, or modifying electronic or computerized data, relative to the
39 performance of the activities in the above described items a through f.
- 40 h. Certifying, within the metadata of a Geographical Information System data base, the
41 positional accuracy of the features, cadastral and/or boundary lines, fixed objects,
42 utilities, images and graphically displayed data sets that are used for base mapping.

43 A person shall be construed to practice or offer to practice surveying, within the meaning and
44 intent of this Chapter, who by verbal claim, sign, advertisement, letterhead, card, or in any other
45 way represents themselves to be a land surveyor or through the use of some other title implies
46 that they are a professional land surveyor or that they are licensed under this Chapter; or who
47 hold themselves out as able to perform, or who does perform any surveying service or work or

1 any other service designated by the practitioner which is recognized as surveying except to
2 references to engineering surveys.

3 (d) Approved School — The term *Approved School* as used in this [Title] Chapter, shall mean
4 institutions offering curricula leading to first professional degrees in engineering, architecture or
5 land surveying and are accredited by the Accreditation Board for Engineering and Technology,
6 Inc., ~~for the NCEES Ad Hoc Subcommittee on Foreign Education of the International Relations~~
7 ~~Committee,~~ or the NCEES Center for Professional Engineering Education Services or the
8 National Architectural Accreditation Board.

9 (e) ARE — The term *ARE* as used in this [Title] Chapter shall mean the current Architect
10 Registration Examination ~~[provided]~~ prepared by the National Council of Architectural
11 Registration Boards.

12 (f) Association — The term *Association* as used in this [Title] Chapter, shall mean the act of a
13 number of persons in uniting together for some special purpose or business. It is a term of
14 vague meaning used to indicate a collection or organization of persons who have joined
15 together for a certain or common objective.

16 (g) Board — The term *Board*, as used in this Act shall mean the Guam Board of Registration for
17 Professional Engineers, Architects, and Land Surveyors, hereinafter provided by this [Act]
18 Chapter.

19 (h) Certificate of Authorization — The term Certificate of Authorization as used in this Act,
20 shall mean those presents issued by the Guam Board of Registration for Professional
21 Engineers, Architects and Land Surveyors to a corporation, [company,] partnership,
22 proprietorship, limited liability company, or other legal entity allowed by Guam Law [etc.];
23 in the name of that organization which serves to identify it as having the legal right to offer
24 engineering, architectural, land surveying or construction management services.

25 (i) Certificate of Registration — The term Certificate of Registration as used in this Chapter
26 shall mean those presents issued by the Guam Board of Registration for Professional
27 Engineers, Architects and Land Surveyors to an individual in his own name, which serves to
28 identify those legally entitled to practice engineering, architecture or land surveying.

29 (j) CLARB — The term CLARB as used in this Chapter shall mean the Council of Landscape
30 Architectural Registration Boards.

31 ~~(j)~~(k) Construction Management — ~~[The]~~ The term Construction Management, as used in this
32 [Act] Chapter, to be performed by licensed engineers, architects, or land surveyors, shall
33 include but not be limited to professional services during construction such as permitting
34 process and coordination, bid evaluation and contract award, processing of payment requests
35 and change orders, claims and dispute resolution, review and approval of submittals and
36 progress schedules, onsite quality assurance inspections and testing, survey checks,
37 compliance to contract documents, and contract closeout including as-built drawings and
38 Operation & Maintenance manuals and training.

39 ~~(k)~~(l) Corporation — The term Corporation, as used in this [Act] Chapter, shall mean an
40 association of individuals or legal entity created by or under the authority of the laws of a
41 territory, state or nation, composed, in some rare instances, of [a] a single person and his
42 successors, being the incumbents of a particular office, but ordinarily consisting of an
43 association of numerous individuals.

44 ~~(l)~~(m) CSCS---- The term CSCS as used in this [Act] Chapter shall mean the California
45 Special Civil Seismic examination [provided] prepared by the California Board of
46 Professional Engineers and Land Surveyors.

47 (n) IDP — The letters 'IDP' as used in this Chapter shall mean Intern Development

1 Program prepared and issued by the NCARB.

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

5 (p) NCARB — The term ‘NCARB’ as used in this Chapter shall mean the National Council
6 of Architectural Registration Boards.

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

9 ~~(m)(r)~~ Partner — The term *Partner* as used in this [Aet] Chapter, shall mean one who has
10 united with others to form a partnership in business.

11 ~~(n)(s)~~ Proprietorship — The term *Proprietorship* as used in this [Aet] Chapter, shall mean
12 business, usually unincorporated, owned and controlled exclusively by one person. Such a
13 business is commonly designated a ‘sole proprietorship’.

14 ~~(o)(t)~~ Registrant or Licensee — The term *Registrant or Licensee* as used this [Aet] Chapter
15 shall mean any person holding a current registration as a Professional Engineer, Registered
16 Architect or Professional Land Surveyor.

17 ~~(p)(u)~~ Resident Agent — *Resident Agent* as used in this Act, shall mean a person residing on
18 Guam designated for service process.

19 ~~(q)(v)~~ Responsible Control — The term *Responsible Control*, as used in this [Aet] Chapter,
20 shall mean [direct control and personal supervision of engineering, architectural or land
21 surveying projects.] that amount of control over and detailed knowledge of the content of the
22 technical submission during their preparation as is ordinarily exercised by professional
23 engineers, registered architects and/or professional land surveyors applying the required
24 professional standard of care. Reviewing, or reviewing and correcting, technical
25 submissions after they have been prepared by others does not constitute the exercise of
26 responsible control because the reviewer has neither control over nor detailed professional
27 knowledge of the content of such submissions throughout their preparation.

28 ~~(r)(w)~~ Responsible Managing Employee — The term *Responsible Managing Employee*, as
29 used in this Aet Chapter, shall mean a person who is licensed under this [Aet] Chapter and
30 who has been designated pursuant to §32123 of this [Aet] Chapter by the firm. The
31 managing employee is responsible for the engineering, architecture or land surveying work
32 on Guam and/or for projects or property within this jurisdiction offered or provided by the
33 firm. A licensee may not be designated as a responsible managing employee for more than
34 one (1) firm. An engineer, architect or surveyor who renders occasional part-time, or
35 consulting services to, or for, a firm may not be designated as a managing employee. The
36 managing employee’s responsibilities include:

37 1. Renewal of the Certificate of Authorization and notification to the Board of any change
38 in the managing employee.

39 2. Overall supervision of the firm’s licensed and subordinate personnel providing the
40 engineering, architecture or surveying work in this jurisdiction.

41 3. Institution and adherence of policies of the firm that are in accordance with the Rules of
42 Professional Conduct, adopted pursuant to Section 32109(e) of this Chapter.

43 ~~(s)(x)~~ Rules of Professional Conduct for Professional Engineers, Architects and Land
44 Surveyors — The term *Rules of Professional Conduct for Professional Engineers,*
45 *Architects and Land Surveyors* as used in this [Title] Chapter, means those rules
46 promulgated by the Board as authorized by law.

47 (y) Technical Submissions — Designs, drawings, specifications, studies, and other

1 technical documents prepared in the course of practicing engineering, architecture and land
2 surveying. All technical submissions shall be identified by date and by name and address of
3 the licensee or licensee's firm.

4 (z) WCARB — The term *WCARB* as used in this Chapter, shall mean the Western Council
5 of Architectural Registration Boards.

6 **§32104. Board Appointments; Terms.** A Guam Board of Registration for Professional
7 Engineers, Architect and Land Surveyors is created whose duty shall be to administer the provisions
8 of this [Title] Chapter.

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

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

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

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

32 **§32105. Board -- Qualifications of Members.** Each member of the Board shall be a citizen
33 of the United States and a resident of Guam. Board members who are required to be
34 registered pursuant to §32104 of this [Title] Chapter shall have been in responsible
35 control in the lawful practice of engineering, architecture or land surveying for at least
36 five (5) years. The public member of the Board shall not be or have been an engineer,
37 architect or land surveyor.

38 **§32106. Board -- Compensation and Expenses.** (a) Each member of the Board shall be
39 entitled to receive compensation as provided for in the [~~by-laws~~] rules and regulations
40 and by law and shall be reimbursed for reasonable and necessary expenses incurred in
41 the course of official duties, when attending to the work of the Board or any of its
42 committees and during time spent in necessary travel.

43 (b) Members shall be reimbursed for conference or convention registration fees,
44 all actual traveling, incidental and clerical expenses necessarily incurred in carrying out
45 the provisions of this [Title] Chapter.

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

1 **§32107. Board -- Removal of Members; Vacancies.** The *I Maga'lahaen Guahan* (Governor)
2 may remove any member for misconduct, [~~incompetency,~~] incompetence, neglect of
3 duty, or any sufficient cause, in the manner prescribed by law for removal of territorial
4 officials. Vacancies in the membership of the Board shall be filled for the unexpired
5 term by appointment by the *I Maga'lahaen Guahan* (Governor) as provided in §32104.

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

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

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

23 (c) In carrying into effect the provisions of this [~~Title~~] Chapter, the Board under the hand
24 of its Chairman and the seal of the Board, may subpoena witnesses and compel their attendance and
25 also may require the submission of books, papers, documents, or other pertinent data, in any
26 disciplinary matters, or in any case wherever a violation of this [~~Title~~] Chapter is alleged. Upon
27 failure or refusal to comply with any such order of the Board, or upon failure to honor its subpoena,
28 as herein provided, the Board may apply to a court of any jurisdiction to enforce compliance with
29 same.

30 (d) The Board, in the name of [~~the Territory~~] Guam, may apply for relief by injunction in
31 the Superior Court, without bond, to enforce the provisions of this [~~Title~~] Chapter, or to restrain any
32 violation thereof. In such proceedings, it shall not be necessary to allege or prove, either that an
33 adequate remedy at law does not exist, or that substantial or irreparable damage would result from
34 the continued violation thereof. The members of the Board shall not be personally liable under
35 [~~this~~] these proceedings.

36 (e) The Board shall have prepared and shall adopt a set of rules for professional conduct
37 which shall be binding upon persons registered under this [~~Title~~] Chapter, and which shall be made
38 known in writing to every registrant and applicant for registration under this [~~Title~~] Chapter, and
39 which shall be published in the roster provided for in §32112 of this [~~Title~~] Chapter. The Board
40 may revise and amend these rules for professional conduct from time to time and shall forthwith
41 notify each registrant in writing of such revisions or amendments.

42 (f) The adoption and amendment of such [~~by-laws-and~~] rules and regulations and rules
43 of procedure and rules of professional conduct shall be in accordance with the provisions of the
44 Administrative Adjudication Law.

45 (g) The Board may subject an applicant for registration to such examinations as may be
46 provided for in the [~~by-laws~~] rules and regulations to determine his qualifications.

47 (h) The Board shall encourage private professional engineering and architectural

1 societies to conduct seminars to prepare applicants for the examinations and shall assist in the
2 coordination of the seminars.

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

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

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

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

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

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

26 **§32110. Records and Reports.** (a) The Board shall keep a record of its proceedings
27 and of all applications for registration, which record shall show:

- 28 (1) the applicant's name, age and last known address;
- 29 (2) the date of the application;
- 30 (3) the applicant's place of business;
- 31 (4) the applicant's education, experience and other qualifications;
- 32 (5) the type of examination required;
- 33 (6) whether or not the applicant was rejected;
- 34 (7) whether or not a certificate of registration was granted;
- 35 (8) the date of the action by the Board; and
- 36 (9) such other information as may be deemed necessary by the Board.

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

40 (c) At the end of every fiscal year, the Board shall prepare and submit to *I Maga'laha*
41 *Guahan* (Governor) and to *I Liheslaturan Guahan* (Guam Legislature) no later than the
42 first day of November, a report of its transactions of the preceding year, and shall
43 transmit to them a complete statement of the receipts and expenditures of the Board,
44 attested by affidavits of its Chairman and its Secretary/Treasurer.

45 (d) Board records and papers of the following class are of a confidential nature and are not
46 public records: all examination materials for examinations not yet given and examination
47 solutions for which the grades have not yet been published; file records of examination

1 problem solutions, letters of inquiry and reference concerning applicants, Board inquiry
2 forms concerning applicants, investigation files where any investigation is still pending,
3 and all other matters of like confidential nature.

4 **§32111. Receipts and Disbursements.** (a) Notwithstanding the Central Accounting Act,
5 all fees and money collected under the provisions of this [~~Title~~] Chapter shall be deposited in a
6 special fund known as the *Professional Engineers, Architects and Land Surveyors Fund*. This fund
7 shall be kept in a bank licensed to do business on Guam and funds shall be paid out only upon a
8 request for payment or requisition submitted by the Secretary/Treasurer or its personnel and
9 countersigned by the Chairman of the Board. All monies in this fund are hereby specifically
10 appropriated only for the use of the Board in pursuit of its authority.

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

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

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

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

31 (f) The Board shall adopt rules or [~~by-laws~~] regulations to provide for an annual budget, an
32 accounting procedure, and the fees for application, registration, examination, re-examination,
33 reciprocity, renewal of registration, temporary permits, corporation permits, replacement of
34 certificates, reconsideration of application, and other services.

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

37 **§32112. Roster.** A complete roster showing the names and last known addresses of all
38 registered engineers, architects, land surveyors, and business entities shall be published by the
39 Secretary of the Board annually not later than the last day of the third month of each year, and shall
40 include each registrant's certificate or registration number. The roster shall be in non-editable
41 electronic format which is printable and available via the internet. Notice of the publication and
42 availability of the [~~Copies of this~~] roster shall be mailed to each person so registered [~~and to each~~
43 ~~applicant for registration~~], paper copies of the roster [~~and~~] shall be placed on file with *I Maga'laha*
44 *Guahan* (Governor), the Speaker of *I Liheslaturan Guahan* (Guam Legislature), and other state and
45 territorial boards, and with each department and agency of the Government of Guam. [~~Additional~~
46 ~~copies may be purchased from the PEALS Board office.~~]

47 **§32113. General Requirements for Registration.** (a) No person shall be eligible for

1 admission to the examination for registration for professional engineer, architect or land surveyor, or
2 for enrollment as an engineer intern or land surveyor intern, under this [Title] Chapter unless he:

- 3 (1) is a citizen of the United States or a ~~[permanent resident alien eligible for United States~~
4 ~~citizenship;]~~ legally admitted alien authorized to work in the United States;
- 5 (2) is of good moral character and repute.
- 6 (3) meets the professional qualifications prescribed by this [Title] Chapter; and;
- 7 (4) submits five (5) references with the applicant's application for registration as a
8 professional engineer, architect or land surveyor, three (3) of which shall be from
9 practitioners registered in the discipline in which he seeks registration and having
10 personal knowledge of his experience in that discipline, or in the case of an application
11 for certification as an engineer intern or land surveyor intern, by three (3) character
12 references.

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

15 (1) as a Professional Engineer:

16 (i) ~~[Graduation, Experience and]~~ Licensure or Registration by Examination —
17 An Engineer Intern with a specific record of an additional four years or more of
18 progressive experience on engineering projects of a grade and character which indicates
19 to the Board that the applicant may be competent to practice engineering shall be
20 admitted to an eight hour written examination in the principles and practices of
21 engineering, and in the case of specific engineering disciplines, other examinations as
22 prescribed in the by-laws. ~~[graduate of an engineering curriculum of four (4) years or~~
23 ~~more approved by the Board as being of satisfactory standing; and with a specific record~~
24 ~~of an additional four (4) years of lawful progressive experience on engineering projects~~
25 ~~satisfactory to the Board, at least one (1) year of which shall have been under the~~
26 ~~supervision of a registered engineer of a grade and character which indicates to the Board~~
27 ~~that the applicant may be competent to practice engineering, shall be admitted to a~~
28 ~~written examination in the fundamentals of engineering and a written examination in the~~
29 ~~principles and practice of engineering as prescribed by the by-laws.]~~ (Upon passing such
30 examination(s), the applicant shall be granted a certificate of registration to practice
31 engineering on Guam, provided the applicant is otherwise qualified.)

32 (ii) Graduation, Experience and Examination — A graduate of an engineering or
33 related science curriculum of four (4) years or more, other than the ones approved by the
34 Board as being of satisfactory standing, and with a specific record of eight (8) years or
35 more of progressive experience, at least two (2) years of which shall have been under
36 the supervision of a registered engineer on projects of a grade and character which
37 indicates to the Board that the applicant may be competent to practice engineering, shall
38 be admitted to a written examination in the fundamentals of engineering and a written
39 examination in the principles and practice of engineering as prescribed in the by-laws.
40 Upon passing such examination, the applicant shall be granted a certificate of registration
41 to practice engineering on Guam, provided the applicant is otherwise qualified.

42 (iii) A Non-graduate from a Technical Curriculum — A non-graduate of an
43 engineering or related science curriculum of four (4) years or more, with a specific
44 record of three (3) years or more in such a curriculum plus twelve (12) years or more of
45 progressive experience on engineering projects four (4) years of which must have been
46 under the supervision of a registered engineer and of which at least six (6) years have
47 been in responsible control of engineering projects of a grade and character which

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

6 (iv) Licensure or Registration by Comity or Endorsement — A person whose
7 qualifications meet the requirements of this Title may, upon application, be registered as
8 a professional engineer identical to his active engineer registration in other jurisdictions
9 if:

10 (aa) ~~[the applicant holds]~~ a current certificate of registration ~~[to engage]~~ in
11 the practice of engineering issued ~~[to him]~~ by a proper authority of a ~~[state, territory]~~
12 jurisdiction or possession of the United States, the District of Columbia or any
13 foreign country, based on requirements that do not conflict with the provisions of this
14 Chapter ~~[from which a certificate of registration is recognized by the National~~
15 ~~Council of Examiners for Engineering and Surveying at such time that the National~~
16 ~~Council of Examiners for Engineering and Surveying recognizes registration from~~
17 ~~any foreign country, so long as the issuance of such certificate is based on verified~~
18 ~~evidence and is based on requirements that do not conflict with the provision of this~~
19 ~~Title]~~ and possessing credentials that are, in the judgment of the Board, [which are]
20 of a standard not lower than specified in the applicable section of this [Title] Chapter
21 in effect in Guam at the time such certificate was issued may upon application, which
22 may include a Council Record with NCEES, be registered or licensed without further
23 examination except as required to present evidence of knowledge of statutes, rules,
24 and design requirements unique to this jurisdiction, provided that ;[or]

25 (bb) he holds a valid certificate issued by the Committee on National
26 Council of Engineering Certification of the National Council of Examiners for
27 Engineering and Surveying;

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

30 (dd) the applicant passes the Fundamentals of Engineering examination
31 (for applicants with Fundamentals of Engineering waivers from other jurisdictions);
32 and

33 (ee) the applicant maintains current registration ~~from his based jurisdiction~~
34 ~~where license was obtained through examination in with at least one other~~
35 ~~jurisdiction, the District of Columbia, a territory or a possession of the United States.~~

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

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

45 (2) As an Engineer Intern:

46 (i) ~~[Graduation and Examination]~~ A college senior or a graduate of an engineering

1 curriculum of four (4) years or more, ~~approved by the Board as being of satisfactory~~
2 ~~standing who has passed the examination as prescribed in the by-laws accredited by~~
3 ~~EAC/ABET, or the equivalent shall be admitted to the current form of examination in the~~
4 ~~Fundamentals of Engineering prepared and furnished by NCEES. Upon passing such~~
5 ~~examination and providing proof of graduation, the applicant shall be certified or~~
6 ~~enrolled as an engineer intern, if the applicant is otherwise qualified.~~

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

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

16 (3) As an Architect:

17 (i) ~~[Graduation,]~~ Education, Experience and Examination — A graduate of an NAAB
18 accredited program ~~[curriculum of not less than five (5) years]~~ from a school of
19 architecture approved by the Board as being of satisfactory standing and at least three (3)
20 years of progressive experience satisfactory to the Board in architectural work covering
21 the major categories of architectural practice, at least two (2) years of which shall have
22 been under the supervision of a registered architect, shall be eligible for a written
23 examination as prescribed in the ~~[by-laws]~~ rules and regulations. Upon passing such
24 examination, the applicant shall be granted a certificate of registration to practice
25 architecture in ~~[this territory]~~ Guam, if the applicant is otherwise qualified.

26 (aa) Effective June 1, 2009, a new or inactive candidate applying to the Board for
27 eligibility evaluation for the Architect Registration Examination (ARE) shall prior to
28 registration or licensure complete the Intern Development Program (IDP) of the National
29 Council of Architectural Registration Boards (NCARB), as defined herein and in the
30 rules and regulations set forth, and the most recent or current form of IDP guidelines
31 prepared and prescribed by the NCARB. The IDP requirement does not apply to a
32 candidate who: (a) was determined by the Board to be eligible on or before May 31,
33 2009 and who is active in the examination process; or (b) has completed all the
34 necessary education equivalents prior to June 1, 2009, who has submitted a completed
35 application for eligibility evaluation to the Board that is postmarked on or before May
36 31, 2009, and who has been determined by the Board to be eligible.

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

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

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

1 (ii) Experience and Examination — An applicant having eight (8) years of architectural training
2 or educational experience satisfactory to the Board of which a minimum of three (3) years
3 shall be experienced covering the major categories of architectural practice under the
4 supervision of a registered architect, shall be eligible for a written examination as prescribed
5 in the ~~[by laws]~~ rules and regulations. Upon passing such examination, the applicant shall
6 be granted a certificate of registration to practice architecture on Guam, if the applicant is
7 otherwise qualified.

8 (iii) Licensure or Registration by Comity or Endorsement — A person shall be licensed or
9 registered without further examination, if that person: ~~[who in the opinion of the Board~~
10 ~~meets the requirements of this Title and who holds a certificate of registration to engage in~~
11 ~~the practice of architecture on the basis of comparable qualifications issued by the proper~~
12 ~~authority of a state, Territory or possession of the United States, or the District of Columbia,~~
13 ~~or by any foreign country with which the National Council of Architectural Registration~~
14 ~~Boards holds a formal agreement of inter-recognition, based on requirements that do not~~
15 ~~conflict with the provisions of this Title and which are of a standard not lower than specified~~
16 ~~in the applicable section of this Title in effect on Guam at the time such certificate was~~
17 ~~issued, and based on verified evidence, as set forth in a current certificate of qualification~~
18 ~~issued by the National Council of Architectural Registration Boards, be registered without~~
19 ~~further examination.]~~

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

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

23 (cc) files his application with the Board, upon a form prescribed and furnished by the Board,
24 containing such information satisfactory to the Board, concerning the person, as the Board
25 considers pertinent.

26 (4) As a Landscape Architect:

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

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

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

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

38 ~~(4)~~**(5)** As a Land Surveyor:

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

45 (i) Licensure or Registration by ~~[Graduation, Experience and]~~ Examination — A ~~graduate of a~~
46 ~~surveying curriculum of four (4) years or more at an institution approved by the Board as~~
47 ~~being of satisfactory standing and with a specific record of an additional four (4) years or~~

1 ~~more of progressive combined office and field experience on land surveying work at least~~
2 ~~two (2) years of which shall be under the supervision of a registered land surveyor and of a~~
3 ~~grade and character which indicates to the Board that the applicant may be competent to~~
4 ~~practice land surveying, surveyor Intern with a specific record of an additional four (4) years~~
5 ~~of combined office and field experience satisfactory to the Board, in surveying, of which a~~
6 ~~minimum of three (3) years' progressive experience has been on surveying projects under~~
7 ~~the supervision of a professional surveyor shall be eligible to take the current form of~~
8 ~~examination prepared and furnished by the NCEES [or a written examination in the~~
9 ~~fundamentals of land surveying,] in the principles and practice of land surveying, and in~~
10 ~~Guam Land Matters as prescribed in the by-laws. (Upon passing such examination, the~~
11 ~~applicant shall be granted a certificate of registration to practice land surveying on Guam,~~
12 ~~provided the applicant is otherwise qualified.)~~

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

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

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

32 (aa) A person holding a certificate of registration to engage in the practice of land
33 surveying [~~on the basis of comparable qualifications~~] issued by a proper authority of a
34 jurisdiction [~~state, territory~~] or possession of the United States or the District of
35 Columbia, or any foreign country, based on requirements that do not conflict with the
36 provisions of this [~~who in the opinion of the Board meets the requirements of this Title~~]
37 Chapter, and possessing qualifications that are, in the judgment of the Board, not lower
38 than that specified in the applicable licensure act in effect in this jurisdiction at the time
39 such certificate was issued, may upon application, which may include a Council Record
40 with the NCEES, be licensed without further examination except as required to present
41 evidence of knowledge of statutes, rules and surveying requirements unique to this
42 jurisdiction, provided that [~~will be given comity consideration. However, the applicant~~
43 ~~may be required to take such examinations as the Board may deem necessary to~~
44 ~~determine the applicant's qualifications, but in any event,~~] the applicant shall be required
45 to pass a written examination of not less than four (4) hours duration on Guam Land
46 Matters, which shall include questions on laws, procedures and practices pertaining to
47 land surveying on Guam.

1 (bb) A person holding an active Council Record with the NCEES, whose qualifications as
2 evidenced by the Council Record, meet the requirements of this Chapter, may, upon
3 application, be licensed without further examination except as required to examine the
4 applicant's knowledge of statutes, rules and surveying requirements unique to this
5 jurisdiction, provided that the applicant shall be required to pass a written examination of
6 not less than four (4) hours duration on Guam Land Matters, which shall include
7 questions on laws, procedures and practices pertaining to land surveying on Guam.

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

11 (5) As a Land Surveyor Intern:

12 (i) ~~[Graduation]~~ Education and Examination — A college senior or a graduate of surveying
13 curriculum of four (4) years or more approved by the Board as being of satisfactory standing
14 shall be admitted to a written examination in the fundamentals of land surveying, as
15 prescribed in the by-laws. Upon passing such examination, the applicant shall be certified or
16 enrolled as a land surveyor intern, if he is otherwise qualified.

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

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

33 The Board may accept the certified information contained in a valid Council Record issued by
34 the National Council of Examiners for Engineering and Surveying Committee on National
35 Engineering Certification for professional engineer applicants or a valid Council Record issued by
36 the National Council of Architectural Registration Boards for architect applicants in lieu of the same
37 information that is required on the form prescribed and furnished by the Board.

38 (b) The application (for individuals and COAs), examination, and registration (for individuals
39 and COAs) fees shall be prescribed by the Board and shall be specified in the ~~[by-laws]~~ rules and
40 regulations.

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

43 **§32115. Examinations.** (a) The applicant may be subjected to such examinations as may be
44 deemed necessary to determine his qualifications. The examinations will be held at such times and
45 place as the Board may direct.

46 (b) Written examinations as specified in the ~~by-laws~~ rules and regulations may be taken only
47 after the applicant has met the other minimum requirements as provided for by §32113.

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

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

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

9 (f) Members of the PEALS Board are prohibited from taking any engineering, architecture or
10 land surveying examination administered on Guam while serving on the Board. However, members
11 may take such in another jurisdiction and have the examination scores accepted on Guam by the
12 Board, so long as said examination does not conflict with the provisions of this [Title] Chapter and
13 is of a standard not lower than that of an examination for the same administered on Guam.

14 **§32116. Certificates -- Seals.** (a) The Board shall issue to each applicant meeting the
15 requirements of this [Title] Chapter a certificate of registration which gives the registrant proper
16 authority to practice his profession on Guam. The certificate of registration for a professional
17 engineer shall carry the designation 'PROFESSIONAL ENGINEER' and shall also designate the
18 branch in which he is authorized to practice. The certificate of registration for an architect shall
19 carry the designation 'REGISTERED ARCHITECT' and the certificate of registration for a land
20 surveyor shall carry the designation 'PROFESSIONAL LAND SURVEYOR'. It shall give the full
21 name of the registrant with his registration number and shall be signed by the Chairman and the
22 Secretary/Treasurer under the seal of the Board.

23 A properly entitled and endorsed identification card shall be issued with the certificate of
24 registration and reissued thereafter as prescribed by §32117 of this [Title] Chapter to each registrant
25 upon payment of the renewal fee.

26 Every registered engineer, architect or land surveyor having a place business or employment
27 within this jurisdiction shall display his certificate of registration in a conspicuous place in such
28 place of business or employment.

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

32 (c) The Board shall issue to each applicant meeting the requirements of this [Title] Chapter a
33 certificate of "engineer intern" or "land surveyor intern" as applicable. The certificate issued to the
34 "engineer intern" or "land surveyor intern" does not authorize the practice of engineering or land
35 surveying and only indicates that his name has been recorded by the Board as having passed the
36 required examination.

37 (d) Each registrant hereunder shall, upon registration licensure, [~~obtain a stamp or seal of the~~]
38 have a seal of a design authorized by the Board, bearing the registrant's name, registration number,
39 and the designation, "Professional Engineer", "Registered Architect" or "Professional Land
40 Surveyor". For Professional Engineers, the stamp or seal shall contain the specific discipline for
41 which he is authorized, the expiration date of the registrant, or a space within which the expiration
42 date must be written:

43 (1) The seal shall be an image [~~or~~], imprint [~~from a rubber stamp~~] or other medium
44 approved by the Board. Except for progress submittals, [W]whenever the seal is applied to a
45 final work product, the registrant's written signature ,and date shall be signed adjacent to the
46 seal with the statement "This work was prepared by me or under my direct supervision". If
47 the work product is not intended for construction, a statement to that effect shall be placed

1 on the document adjacent to the seal. A facsimile signature will not be acceptable.
2 Computer-generated signatures and dates are not acceptable.

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

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

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

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

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

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

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

34 (i) The seal of a professional engineer shall be placed on each drawing,
35 specification, plan, report or other document which is in its final form and which
36 involves the practice of engineering as defined in this [Title] Chapter. A separate seal of
37 a professional engineer of the appropriate branch of engineering, as such branches are
38 designated on the various forms of professional engineer registration certificates, is
39 required for each portion of such document that involves a separate branch of
40 engineering registration certificates, is required for each portion of such document that
41 involves a separate branch of engineering, except as provided in Sub-item (ii) of this
42 item (8). For example, except as provided in Sub-item (ii) of this item (8), so long as
43 registration certificates classify 'civil engineering', 'structural engineering', 'mechanical
44 engineering' and 'electrical engineering' as different branches of engineering, the seal of
45 a professional engineer of the civil branch shall be required for each portion of an
46 engineering document involving civil work; the seal of a professional engineer of the
47 structural branch or civil branch shall be required for each portion of engineering

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

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

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

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

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

23 (dd) in the case of document involving the design of a fire sprinkler
24 system, a seal of a professional engineer in the [~~meehanical~~] fire protection branch
25 shall be required.

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

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

35 (9) Seals of Architects.

36 (i) All technical submissions, such as drawings, specifications, plans, reports or
37 other documents, prepared by a registered architect or under his responsible control
38 shall bear his seal, which shall mean that the architect was in responsible control over
39 the content of such technical submissions during their preparation and has applied the
40 required professional standard of care. An architect may sign and seal technical
41 submissions, only if the technical submissions were: (1) prepared by the architect, or;
42 (2) prepared by persons under the architect's responsible control. [~~The seal of an~~
43 ~~architect shall be placed on each drawing, specification, plan, report or other~~
44 ~~document which is in its final form and which involves work with respect to any~~
45 ~~building which has as its principal purpose human occupaney or habitation, or which~~
46 ~~involves any other aspect of the practice of architecture as defined in this Title.]~~

47 (ii) Notwithstanding the provisions of Sub-item (i) of this item (9), in the case of

1 a document involving an individual single family dwelling, a seal of either an
2 architect or a professional engineer of the civil engineering branch shall be sufficient.
3 Documents involving two (2) family dwellings, or a subdivision development with
4 single family and two (2) family dwellings, the seal of a professional engineer of the
5 civil engineering branch is sufficient.

6 (iii)The requirement contained in Sub-item (1 i) of this item (9) does not affect
7 the need for a seal of a professional engineer of the appropriate branch of engineering
8 for each portion of a document that involves a system of a separate branch of
9 engineering.

10 (10) Seals of Professional Land Surveyors:

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

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

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

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

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

40 (12) An Engineer, Architect and Land Surveyor shall provide construction contract
41 administration when applications are made for building or construction permits involving the
42 public safety and health. The term "construction contract administration" means making periodic
43 visits to the site by a registered engineer, architect or land surveyor or authorized representatives
44 as the case may require, to observe the progress and quality of the executed work and to
45 determine, in general, if the work is proceeding in accordance with the contract documents. It is
46 not required that they make exhaustive or continuous on-site inspections to check the quality or
47 quantity of the work nor it is intended that the engineer, architect and land surveyor be

1 responsible for construction means, methods, techniques, sequences or procedures, or for safety
2 precautions and programs in connection with the work.

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

5 **§32117. Expirations and Renewals.** (a) Certificates of registration and certificates of
6 authorization for corporations, partnerships, proprietorships and associations shall expire on the last
7 day of the month of September of each year, following their year of issuance and become invalid
8 after that date unless renewed by submission of appropriate forms as prescribed by the Board.

9 (1) Renewals of Certificates of Authorization for corporations, partnerships,
10 proprietorships and associations shall submit a clearance form from the Department of
11 Revenue and Taxation that they are current on their taxes with the Government of Guam, or
12 have an agreement with Department of Revenue and Taxation for their back taxes. Such
13 clearance shall be submitted with their renewal application form.

14 (2) ~~[Such]~~ Expired Certificates of Registration ~~[license]~~ may be renewed at any time
15 within ~~[six (6) months]~~ sixty (60) days following the expiration date without submission of
16 “Application for Reinstatement” upon payment of the renewal fee plus penalty fee as
17 prescribed by the Board. ~~[Upon failure to]~~ Any individual registrant who fails to renew
18 within ~~six (6) months (60)~~ sixty days after the date of expiration, ~~[the licensee]~~ shall be
19 required to apply for a reinstatement of registration, pay the prescribed (back registration and
20 penalty) fees as prescribed by the Board. ~~[and in circumstances submit an application for~~
21 ~~‘Reinstatement of Registration’ form.]~~

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

25 (b) It shall be the duty of the Secretary/Treasurer of the Board to notify every person
26 registered under this [Act] Chapter, and every corporation, partnership, proprietorship and
27 association holding a certificate of authorization under this [Act] Chapter, of the date of the
28 expiration of said certificate of registration or certificate of authorization, and the amount of the fee
29 required for its renewal. Such notice shall be mailed to the registrant or corporation, partnership,
30 proprietorship or association at his/her or its last known address at least one (1) month in advance of
31 the date of the expiration of said certificate. Renewal may be effected at any time prior to or during
32 the month of September by payment of a fee as established by the Board. [Renewal of an expired
33 certificate may be effected under rules prescribed by the by laws.]

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

35 **§32118. Replacement of Certificates.** (a) Replacement of Certificates. A new certificate
36 of registration, to replace any certificate lost, destroyed, or mutilated, may be issued subject to the
37 rules of the Board and upon payment of the prescribed fee and such certificate shall be stamped or
38 marked “duplicate”.

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

42 **§32119. Public Works.** Government employees shall not engage in the practice of
43 engineering, architecture, or land surveying involving either public or private property without the
44 project being under the direct charge and supervision of a registered engineer, architect or land
45 surveyor as provided by this [Act] Chapter.

46 **§32120. Disciplinary Action – Revocation, Suspension, Refusal to Issue, Restore, or**
47 **Renew, Probation, Fine ~~[or]~~ Reprimand. [Powers]** (a) The publication of the rules of conduct for

1 professional engineers, architects and land surveyors as provided for in §32109 or this [Title]
2 Chapter shall constitute due notice to all registrants.

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

- 8 (1) the practice of any fraud or deceit in obtaining or attempting to obtain or renew a
9 certificate of registration or certificate of authorization;
- 10 (2) any gross negligence, incompetency, or misconduct, in the practice of ~~his~~ profession,
11 engineering, architecture or land surveying;
- 12 (3) conviction of or entry of a plea of guilty or nolo contendere to any crime which is a
13 felony, whether related to practice or not; and conviction of or entry of a plea of guilty to
14 any crime, whether a felony, misdemeanor, or otherwise, an essential element of which is
15 dishonesty or which is directly related to the practice of engineering, architecture or
16 surveying;
- 17 (4) any felony or any crime involving moral turpitude, in which case a certified copy of the
18 record of conviction shall be conclusive evidence thereof;
- 19 (5) failure to comply with any of the provisions of this Chapter or violation of any of the
20 rules or regulations pertaining thereto [~~of professional conduct adopted and promulgated~~
21 ~~by the Board~~];
- 22 (6) discipline by another jurisdiction, territory, the District of Columbia, foreign country, the
23 United States government, or any governmental agency, if at least one of the grounds for
24 discipline is the same or substantially equivalent to those contained in this section.
25 [violation of any provision of this Title];
- 26 (7) failure to provide information requested by the Board as a result of a formal or informal
27 complaint to the Board which would indicate a violation of this Chapter;
- 28 (8) knowingly making false statements or signing false statements, certifications, or
29 affidavits to include payment;
- 30 ~~(6)~~(9) aiding [and] or assisting [abetting] another person in violating any provision of this
31 Chapter or the rules or regulations pertaining thereto [~~in the practice of professional~~
32 ~~engineering, architecture, or land surveying any person not duly authorized to practice~~
33 ~~engineering, architecture, or land surveying under the provisions of this Title~~];
- 34 ~~(7)~~(10) violating any terms of probation imposed by the Board or using a seal, or practicing
35 engineering, architecture or land surveying while the registrants license is suspended,
36 revoked, non-renewed;
- 37 (11) signing, affixing or permitting his seals to be affixed to any specifications, reports,
38 drawings, plans, plats design information, construction documents or calculations, surveys,
39 or revisions thereof which have not [~~specifications, or drawings that were not~~] been prepared
40 by the licensee him or under the licensee's responsibility or direct his personal supervision,
41 by his employee or subordinate;
- 42 (12) failure to provide information requested by the Board as a result of a formal or
43 informal complaint to the Board which would indicate a violation of this Act;
- 44 ~~(9)~~ (13) engaging in dishonorable, unethical, or unprofessional conduct of a character
45 likely to deceive, defraud, or harm the public;
- 46 (14) providing false testimony or information to the Board;
- 47 (15) convictions for habitual intoxication or addiction to the use of drugs or alcohol so as

1 to endanger health, safety and interest of the public by impairing skill and care in
2 professional services; or
3 (10)(16) providing engineering, architectural or surveying services outside of the licensee's
4 areas of competence. Licensees must demonstrate by education or experience that they are
5 competent to practice in the subject field in question. practicing or offering to practice
6 engineering, architecture or land surveying without a current license from this Board.

7 (c) A record ~~[or]~~ of conviction of any of the offenses provided in paragraph (b)(1) through
8 (b)~~(10)~~(16) above shall be conclusive evidence thereof.

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

14 (1) revoke a certificate of authorization, or

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

18 (3) assess fines against the firm.

19 (e) ~~[Each day of continued violation may constitute a separate offense.]~~ In addition to or in lieu
20 of any other penalty provided in this Section, any licensee who violates a provision of this
21 Chapter, or any rule or regulation pertaining thereto, a civil penalty in an amount determined
22 by the Board or not more than \$5,000 for each offense.

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

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

26 (i) whether the amount imposed will be substantial economic deterrent to the
27 violation;

28 (ii) the circumstances leading to the violation;

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

30 **§32121. Disciplinary Action Procedures.** (a) Any person may prefer charges of fraud,
31 deceit, gross negligence, incompetence, misconduct, or violation of the rules of professional
32 conduct, against any individual registrant, or against any corporation, partnership or association
33 holding a certificate of authorization. Such charges shall be in writing and shall be sworn to by the
34 person or persons making them and shall be filed with the Secretary/Treasurer of the Board.
35 ~~[Furthermore, notwithstanding Subsection (g) of this Section, t]The Board may summarily take~~
36 ~~action without compliance with the Administrative Adjudication Law, to suspend [or-revoke], or~~
37 ~~deny a certificate of registration or authorization from any individual registrant, corporation,~~
38 ~~partnership or association when it has received or obtained either a record of conviction or notice via~~
39 ~~news media and/or radio that said registrant, corporation, partnership or association has been found~~
40 ~~guilty of a crime.~~

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

47 (c) The time and place for said hearing shall be fixed by the Board, and a copy of the

1 charges, together with a notice of the time and place of hearing, shall be ~~[personally]~~ served on or
2 mailed to the ~~[last known address of such]~~ individual registrant, or corporation, partnership, or
3 association holding a certificate of authorization, or to his designated counsel in accordance with the
4 requirements of the Administrative Adjudication Law. ~~[at least thirty (30) days before the date fixed~~
5 ~~for the hearing.]~~ At any hearing, the accused shall have the right to appear in person or by counsel,
6 or both, to cross-examine witnesses in his or its defense, and to produce evidence and witnesses in
7 his own defense. If the accused person fails or refuses to appear, the Board may proceed to hear and
8 determine the validity of the charges.

9 (d) If, after such hearing, a majority of the Board votes in favor of sustaining the
10 charges, the Board shall reprimand, suspend, refuse to renew, or revoke the certificate of registration
11 or certificate of authorization. ~~[The Board, for reasons it may deem sufficient, may reissue a~~
12 ~~certificate of registration to any person whose certificate has been revoked.]~~

13 (e) Any individual registrant having a certificate of registration, or corporation,
14 partnership or association holding a certificate of authorization, aggrieved by any action of the
15 Board in denying, suspending, refusing to renew or revoking his certificate of registration, or its
16 certificate of authorization, may appeal therefrom to the proper court under normal civil procedures.

17 (f) The Board may, upon petition of a formerly licensed individual registrant or
18 corporation, partnership or association ~~[holding a certificate of authorization]~~, reissue a certificate of
19 registration or authorization, provided that ~~[a majority of the members of the Board]~~ not less than
20 four (4) members of the seven (7) member Board, vote in favor of such issuance.

21 (g) No certificate of registration or authorization shall be suspended, revoked or denied
22 renewal by the Board, except after a hearing in accordance with the provisions of the Administrative
23 Adjudication Law.

24 **§32122. Violations and Penalties. (a) Civil Penalties for Non-Licensees:**

25 (1) In addition to any other provision of law, the Board may enter an order assessing a
26 civil penalty against any person, firm, partnership, or corporation found guilty by the Board
27 of:

28 (i) Engaging in the practice or offer to practice of engineering, architecture or
29 land surveying in this jurisdiction without being licensed in accordance with the
30 provisions of this Chapter;

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

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

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

38 (v) Falsely impersonating any other licensed engineer, architect or land surveyor
39 of like or different name; or

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

42 (2) A civil penalty levied under this Section may not exceed \$5,000 for each offense.

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

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

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

- (ii) The circumstances leading to the violation;
- (iii) The severity of the violation and risk of harm to the public;
- (iv) The economic benefits gained by the violator as a result of non-compliance; and
- (v) The interest of the public.

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

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

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

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

(b) Criminal Offenses

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

~~(b)(ii)~~ It shall be the duty of all duly constituted officers of [the territory] Guam to enforce the provisions of this [Title] Chapter and to prosecute any person violating same.

~~(e)(iii)~~ The Attorney General of Guam shall act as legal advisor to the Board and render such legal assistance as may be necessary in carrying out the provisions of this [Act] Chapter. The Board may employ independent counsel and necessary assistance to aid in the enforcement of this [Title] Chapter and the compensation and expenses therefor shall be paid from funds of the Board.

~~(d)(iv)~~ Any person who is not registered as a professional engineer, architect or land surveyor under this [Title] Chapter and who, by written or verbal claim, sign, advertisement, letterhead, card or in any other way represents himself to be a professional engineer, architect or land surveyor or through the use of some other title implies that he is a professional engineer, architect or land surveyor or that he is registered under this [Title] Chapter or holds himself out as able to perform any engineering service or work or any other service designated by the

1 practitioner which is recognized as engineering, architecture or land surveying shall be guilty of
2 a petty misdemeanor.

3 (e)(v) Any person who is not registered as a professional architect under this Title and who,
4 by verbal claim, sign, advertisement, letterhead, card or in any other way represents himself to
5 be a professional architect or through the use of some other title implies that he is a professional
6 architect or that he is registered under this Title or holds himself out as able to perform any
7 architectural service or work or any other service designated by the practitioner which is
8 recognized as architecture shall be guilty of a petty misdemeanor.

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

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

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 or land
23 surveying must ~~[be issued]~~ obtain a certificate of authorization ~~[by]~~ from the Board. The Board may
24 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 directors of a corporation; one (1) or more of the general partners of a
27 partnership; the sole proprietor of a proprietorship; or one or more of the managers of a
28 limited liability company are registered under this [Title] Chapter or the engineering,
29 architecture or land surveying registration law of another jurisdiction within the United
30 States, District of Columbia or its Territories; and

31 (ii) ~~[further provided that]~~ any agreement to perform such services shall be executed on behalf of
32 the corporation, partnership, limited liability company by the director or directors, general
33 partner or partners, sole proprietor, or by the manager or managers who are registered on
34 Guam and who exercises responsible control over the particular services contracted for by
35 the corporation, partnership, proprietorship or limited liability company.

36 The requirements of this [Title] Chapter shall not prevent the employees of such corporations,
37 partnerships, proprietorships or limited liability companies from performing engineering,
38 architecture or land surveying services; provided that all technical submissions involving the
39 practice of engineering, architecture or land surveying as defined in this [Title] Chapter when
40 issued, or filed for public record, shall be dated, and bear the seal and signature of the professional
41 engineer, architect, or professional land surveyor under whose responsible control it was prepared.

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

47 (c) A multi-discipline firm who has more than one (1) designated RME shall be required to have

1 a minimum of one (1) RME [~~available on a full time basis with 75% physical presence and~~] who
2 must have full control over the particular services contracted for by the firm. In the event there shall
3 be a change in any of these persons during the year, such change shall be reported in the form as
4 issued by the Board within thirty (30) days after the effective date of said change.

5 If all of the requirements of this Section are met, the Board may issue a certificate of
6 authorization to such corporation, partnership, proprietorship or limited liability company
7 authorizing such organizations to contract for and to collect fees for furnishing engineering,
8 architecture or land surveying services. All off-island firms shall be required to maintain a local
9 office under the control of at least one (1) Responsible Managing Employee who shall be [~~available~~
10 ~~on a full time basis with a seventy five (75%) physical presence~~] in full control of the operations of
11 the firm. The COA shall be displayed in a conspicuous place in such business.

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

17 A certificate of incorporation shall not be issued to an applicant for a registration as a foreign
18 firm to a firm which includes among the objectives for which it is established any of the words
19 engineer', 'engineering', 'architect', 'architectural', 'surveyor', 'land surveying', or any
20 modification or derivation thereof, unless the Board has issued for the said applicant a certificate of
21 authorization or letter indicating the eligibility of such applicant to receive such a certificate. The
22 firm shall supply such certificate or letter from the Board with the applicant's application for
23 incorporation, [~~or registration~~] licensure or authorization.

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

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

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

33 (g) The certificate of authorization shall be renewed as herein before provided in Section
34 §32117(a).

35 **§32124. Exclusive Jurisdiction of the Board -- Restriction on requirement for additional**
36 **licenses or fees.** No local jurisdiction shall have the authority to require additional licensure or to
37 require payment of any fees in order for any professional engineer, architect or land surveyor to
38 engage in the practice of the profession for which the Board has issued a license.

39 **§32125. Contract Law Language.** (a) A Professional Engineer, Architect or land surveyor
40 shall use a written contract when contracting to provide professional engineering, architecture, land
41 surveying or construction management services to a client pursuant to this Chapter. The written
42 contract shall be executed by the professional engineer, architect or land surveyor and the client, or
43 his representative, prior to the professional engineer, architect or land surveyor commencing work,
44 unless the client knowingly states in writing that work may commence before the contract is
45 executed. The written contract shall include, but not limited to, all of the following:

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

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

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

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

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

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

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

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

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

18 **§3212[4]6. Exemption Clause.** This [~~Aet~~] Chapter shall not be construed to prevent the practice
19 by:

20 (a) Temporary Permits.

21 (1) Professional Engineer/Architect — The practice or offer to practice engineering or
22 architecture by a person not a resident of or having no established place of business on Guam,
23 provided such person is legally qualified by registration to practice engineering or architecture
24 as defined in §32103 of this Title, in his own state or territory and, in the case of a person
25 seeking to practice architecture, who has a current certificate of registration issued by the
26 National Council of Architectural Registration Boards. Such person shall make application to
27 the Board in writing and after payment of a fee as prescribed in the by-laws may be granted
28 written permit for a definite period of time not to exceed one (1) year to do a specific job,
29 provided, however, that no right to practice engineering or architecture shall accrue to such
30 applicant with respect to any other work not set forth in said permit.

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

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

35 (b) Employees and Subordinates. [~~T~~]the work of an employee or a subordinate of a person
36 holding a certificate of registration under this [~~Title~~] Chapter, or an employee of a person
37 practicing lawfully under Subsection (a) of this Section; provided such work does not include
38 final engineering, architecture or land surveying designs or decisions and is done under the
39 direct supervision of and verified by a person holding certificate of registration under this ~~Title~~
40 Chapter or a person practicing lawfully under Subsection (a) of this Section.

41 (c) Practice of Construction Management. Any service or work, the adequate performance of
42 which involves professional construction inspection or observation, certifications, shop drawing
43 review and approval, engineering calculations, revising construction details, construction
44 interpretation, etc. as defined in §32103 of this Title.

45 **§3212[5]7. Duties of Recorders.** It shall be unlawful for the recorder of deeds or the registrar of
46 titles to file or record any map, plat, survey or other documents within the definition of land
47 surveying which do not have impressed thereon and affixed thereto the personal signature and seal

1 of the [~~registered~~] professional land surveyor by whom or under whose direct supervision the map,
2 plat, survey or other documents were prepared.

3 **§3212[6]8. Invalid Sections.** If any of the provisions of this [~~Aet~~] Chapter, or if any rule,
4 regulation or order thereunder, or if the application of such provision to any person or circumstance
5 shall be held invalid, the remainder of this [~~Aet~~] Chapter and the application of such provision of
6 this [~~Aet~~] Chapter or such rule, regulation or order to persons or circumstances, other than those as
7 to which it is held invalid, shall not be affected thereby.

8 **§3212[7]9. Effective Date.** This law shall take effect thirty (30) days from the date of passage.”