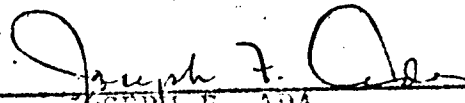


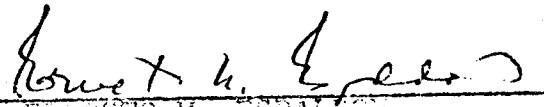
FOURTEENTH GUAM LEGISLATURE
1977 (FIRST) REGULAR SESSION

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 140, "An Act to add a new Chapter VII to Title XI to create a Contractors License Board and for other purposes", was on the 22nd day of June, 1977, duly and regularly passed.


JOSEPH F. ADA
Speaker

ATTESTED:


ERNESTO M. ESPALDON
Legislative Secretary

This Act was received by the Governor this 30th day of
June, 1977 at 9:15 o'clock AM.

/s/ Ruth F. Won-Pat
RUTH F. WON PAT
Assistant Staff Officer
Governor's Office

APPROVED:

/s/ RICARDO J. BONDALLO
RICARDO J. BONDALLO
Governor of Guam

DATED: July 11, 1977

11 4:27 PM
Public Law No. 14-51

FOURTEENTH GUAM LEGISLATURE
1977 (FIRST) Regular Session

Bill No. 140

Introduced by

J. H. Underwood
C. T.C. Gutierrez

AN ACT TO ADD A NEW CHAPTER VII TO TITLE XI
TO CREATE A CONTRACTORS LICENSE BOARD AND
FOR OTHER PURPOSES.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. A new Chapter VII is added to Title XI of the
3 Government Code to read:

4 "CHAPTER VII

5 CONTRACTORS

6 Section 10500. Definitions. As used in this Chapter:

7 (a) 'Board' means the Contractors License Board.

8 (b) 'Contractor' means any person who undertakes
9 to construct, alter, repair, add to, subtract from,
10 improve, move, wreck or demolish any building, highway,
11 road, railroad, excavation or other structure, project
12 development or improvement or do any part thereof,
13 including the erection of scaffling or other structure
14 of works in connection therewith for another person
15 for a fee.

16 (c) 'Contractor' includes a subcontractor and a
17 specialty contractor.

18 (d) 'Person' means an individual, partnership,
19 joint venture, corporation, or any combination thereof.

20 'Corporation' includes an association, business trust
21 or any organized group of persons.

22 Section 10501. Exemptions. This Chapter shall not
23 apply to:

1 (a) An officer or employee of the United States,
2 the territory, or any political subdivision, if the
3 project or operation is performed by employees thereof;

4 (b) Any person acting as a receiver, trustee in
5 bankruptcy, administrator or executor, or any other
6 person acting under any order or authorization of any
7 court;

8 (c) A person who sells or installs any finished
9 products, materials or articles or merchandise which
10 are not actually fabricated into and do not become
11 a permanent fixed part of the structure, or to the
12 construction, alteration, improvement, or repair
13 of personal property;

14 (d) Any project or operation for which the
15 aggregate contract price for labor, materials, and all
16 other items is less than One Thousand Dollars
17 (\$1,000.00). This exemption shall not apply in any
18 case wherein the undertaking is only part of a larger
19 or major projects or operation, whether undertaken by
20 the same or a different contractor or in which a
21 division of the project or operation is made in
22 contracts of amounts less than One Thousand Dollars
23 (\$1,000.00) for the purpose of evading this Chapter or
24 otherwise;

25 (e) A registered architect or professional
26 engineer acting solely in his professional capacity;

27 (f) Any person who engages in the activities
28 herein regulated as an employee with wages as his
29 sole compensation;

1 (g) Any person who undertakes by himself or
2 through his employees any operation for himself; and

3 (h) Any copartnership or joint venture if all
4 members thereof hold licenses issued under this
5 Chapter or if the person or persons who have direct
6 management of the contracting business thereof hold
7 a license.

8 Section 10502. Contractors License Board.

9 (a) There shall be a Contractors License Board
10 compose of seven (7) members, two (2) of which shall
11 be appointed by the Governor from the construction
12 industry, three (3) of which shall be appointed by
13 the Governor from the general public and who shall
14 have no interest in the construction industry and the
15 Director of Revenue and Taxation, ex officio, and the
16 Director of Public Works, ex officio. Those members
17 appointed by the Governor are subject to confirmation
18 by the Legislature. Their terms shall be four (4)
19 years and said terms to commence January 1, next
20 following the enactment hereof.

21 (b) The concurrence of four (4) members of the
22 Board shall be necessary for the validity of any of
23 its action.

24 (c) Organization, Records, Reports. Immediately
25 upon the appointment and qualifications of the
26 original members, and annually thereafter, the Board
27 shall organize by the election of one member as
28 Chairman and one member as Vice-Chairman. The Board
29 shall keep a complete record of all its proceedings

1 and shall present annually to the Governor through the
2 Director of Public Works a detailed statement of the
3 previous year, proceedings and such recommendations
4 as the Board may deem proper.

5 Section 10503. Powers and Duties of Board. In
6 addition to any other duties and powers granted by this
7 Chapter the Contractors License Board shall:

8 (a) Grant licenses to contractors pursuant to
9 this Chapter;

10 (b) Make, amend, or repeal such rules and
11 regulations as it may deem proper fully to effectuate
12 this Chapter and carry out the purpose thereof
13 which purpose is the protection of the general public.
14 All such rules and regulations shall be adopted
15 pursuant to the Administrative Adjudication Law.
16 The rules and regulations may forbid acts or
17 practices deemed by the Board to be detrimental to
18 the accomplishment of the purpose of this Chapter. The
19 rules and regulations may require contractors to make
20 reports to the Board containing such items of infor-
21 mation as will better enable the Board to enforce this
22 Chapter and rules and regulations, or as will better
23 enable the Board from time to time to amend the rules
24 and regulations more fully to effectuate the
25 purposes of this Chapter. The rules and regulations
26 may require contractors to furnish reports to owners
27 containing such matters of information as the Board
28 deems necessary to promote the purpose of this Chapter.
29 The enumeration of specific matters which may properly

1 be made the subject of rules and regulations shall
2 not be construed to limit the Board's general power
3 to make all rules and regulations necessary fully
4 to effectuate the purpose of this Chapter;

5 (c) Enforce this Chapter and rules and regulations
6 adopted pursuant thereto;

7 (d) Suspend or revoke any license for any cause
8 prescribed by Section 10516 or for any cause for
9 suspension or revocation prescribed by the rules and
10 regulations, and refuse to grant any license for any
11 cause which would be ground for revocation or suspension
12 of a license; and

13 (e) Publish and distribute pamphlets and circulars
14 containing such information as it deems proper to
15 further the accomplishment of the purpose of this
16 Chapter.

17 Section 10504. Executive Secretary; Other Assistants.

18 (a) Subject to the Personnel Law, the Department
19 of Public Works may employ and remove such administra-
20 tive and clerical assistants as the Contractors License
21 Board may require and prescribe their powers and
22 duties.

23 (b) (1) The Contractors License Board shall
24 employ an Executive Secretary. The Executive Secretary
25 shall be employed with due regard to his fitness,
26 thorough administrative ability and knowledge of and
27 experience in the business of contracting. The
28 Executive Secretary shall act only with the advice and
29 consent of the Board and shall be responsible to the

1 Board. He shall devote his entire time to the
2 duties of his office and shall not be actively engaged
3 or employed in any other business, vocation, or
4 employment, nor shall he have any pecuniary interest,
5 direct or indirect, in any contracting enterprise or
6 enterprises conducted or carried on within the territory.

7 (2) The Executive Secretary shall, under the
8 supervision of the Board, administer this Chapter and
9 the rules and regulations and orders established
10 thereunder and perform such other duties as the Board
11 may require; he shall attend but not vote at all
12 meetings of the Board; he shall be in charge of the
13 offices of the Board and responsible to the Board for
14 the preparation of reports and the collection and
15 dissemination of data and other public information
16 relating to contracting.

17 (3) The Board may, by written order filed in its
18 office, delegate to the Executive Secretary such of its
19 powers or duties as it deems reasonable and proper for
20 the effective administration of this Chapter, except
21 the power to make rules or regulations. The delegated
22 powers and duties may be exercised by the Executive
23 Secretary in the name of the Board.

24 Section 10505. Place of Meeting. The Director of Public
25 Works shall provide suitable quarters for meetings of the
26 Contractors License Board and for the transaction of its
27 other business.

28 Section 10506. Classification. (a) For the purpose
29 of classification, the contracting business includes any or

1 all of the following branches:

- 2 (1) General Engineering Contracting;
3 (2) General Building Contracting;
4 (3) Specialty Contracting;
5 (4) Responsible Management Employee (R.M.E.)

6 (b) A general engineering contracting business
7 is in connection with fixed works requiring specialized
8 engineering knowledge and skill, including the following
9 divisions or subjects: irrigations, drainage, water
10 power, water supply, floor control, inland waterways,
11 harbors, docks and wharves, shipyards and ports,
12 dams and hydroelectric projects, levees, river control
13 and reclamation works, highways, streets and roads,
14 tunnels, airports and airways, sewer, sewage disposal
15 plants and systems, waste reduction plants, bridges,
16 overpasses, underpasses and other similar works,
17 pipelines, and other systems for the transmission of
18 petroleum and other liquid or gaseous substances, parks,
19 playgrounds and other recreational works, refineries,
20 chemical plants and similar industrial plants
21 requiring specialized engineering knowledge and skill,
22 powerhouses, power plants, and other utility plants
23 and installations, mines and metallurgical plants,
24 land levelling and earth-moving projects, excavating,
25 grating, trenching, paving and surfacing work and
26 cement and concrete works in connection with the above
27 mentioned fixed works.

28 (c) A general building contractor is a contractor
29 whose principal contracting business is in connection

1 with any structure built, being built, or to be built,
2 for the support, shelter, and enclosure of persons,
3 animals, chattels, or movable property of any kind,
4 requiring in its construction the use of more than two
5 unrelated building trades or crafts, or to do or
6 superintend the whole or any part thereof.

7 (d) A specialty contractor is a contractor whose
8 operations as such are the performance of construction
9 work requiring special skill and whose principal con-
10 tracting business involves the use of specialized
11 building trades or crafts.

12 (e) A Responsible Management Employee is an in-
13 dividual, who has proved his contracting knowledge by
14 written examination.

15 Section 10507. Powers to Classify and Limit Operations.

16 (a) The Contractors License Board may adopt
17 rules and regulations necessary to effect the
18 classification of contractors and shall require a
19 written examination in a manner consistent with
20 established usage and procedure as found in the
21 construction business, and may limit the field and scope
22 of the operations of a licensed contractor to those in
23 which he is classified and qualified to engage, as
24 defined in Section 10506.

25 (b) A licensee may make application for classi-
26 fication and be classified in more than one classifi-
27 cation if the licensee meets the qualifications pre-
28 scribed by the Board for such additional classification.
29 For qualifying or classifying in additional classifica-

1 tions, the licensee shall pay the appropriate applica-
2 tion fee but shall not be required to pay any
3 additional license fee.

4 (c) This Section shall not prohibit a specialty
5 contractor from taking and executing a contract in-
6 volving the use of two or more crafts or trades, if
7 the performance of the work in the crafts or trades,
8 other than in which he is licensed, is less than 35% and
9 supplemental to the performance of work in the
10 craft for which the specialty contractor is licensed.

11 Section 10508. Licenses Required. No person within
12 the purview of this Chapter shall act, or assume to act, or
13 advertise, as general engineering contractor, general
14 building contractor, or specialty contractor without a
15 license previously obtained under and in compliance with
16 this Chapter and the rules and regulations of the Con-
17 tractors License Board.

18 Section 10509. Investigation Permitted. The
19 Contractors License Board may investigate, classify, and
20 qualify applicants for contractors licenses.

21 Section 10510. No License Issued When. No license
22 hereunder shall be issued to:

23 (1) Any person unless he has filed an application
24 therefore;

25 (2) Any person who does not possess a good repu-
26 tation for honesty, truthfulness, financial integrity,
27 and fair dealing;

28 (3) Any copartnership or joint venture who does
29 not actively participate in at least one construction

1 job in the course of the license year in the
2 contracting business and thereof does not hold an
3 appropriate license;

4 (4) Any corporation unless the contracting
5 business thereof is under the direct management of an
6 officer or employee thereof and, unless the officer
7 or employee holds an appropriate Responsible Management
8 Employee license;

9 (5) Any individual unless he is of the age of
10 twenty years (20) or more; or

11 (6) Any person unless he submits satisfactory
12 proof to the Contractors License Board that he has
13 obtained workmen's compensation insurance.

14 Section 10511. Application: Fees.

15 (a) Every applicant for a license under this
16 Chapter shall file an application with the Contractors
17 License Board in such form and setting forth such
18 information as may be prescribed or required by the
19 Board, and shall furnish such additional information
20 bearing upon the issuance of the license as it shall
21 require. Every application shall be sworn to before
22 an officer authorized to administer oaths. In the
23 case of a copartnership, joint venture, or corporation,
24 any member or officer thereof may sign the application
25 and verify the same on behalf of the applicant.

26 (b) Every application, in the case of an indivi-
27 dual, shall be accompanied by sworn certificates
28 of not less than two (2) persons who have known the
29 applicant for a period of not less than six (6) months

1 certifying that the applicant bears a good reputation
2 for honesty, truthfulness and fair dealings.

3 (c) Every application for a license hereunder
4 shall be accompanied by an application fee of Twenty
5 Five Dollars (\$25.00).

6 Section 10512. Form of Licenses. The form of
7 every license shall be prescribed by the Contractors License
8 Board and shall be issued in the name of the Board.

9 Section 10513. Place of Business and Posting of
10 License. A licensed contractor shall have and maintain
11 a definite place of business in the territory and shall
12 display therein his contractor's license.

13 Section 10514. Fees; Annual.

14 (a) The annual fees for each license thereof
15 prescribed by this Chapter shall be as follows:

16 (1) License Fee

17 License to act as specialty contractor \$200
18 License to act as general engineering contractor
19 \$200
20 License to act as general building
21 contractor \$200

22 (2) License fee for Responsible

23 Management Employee (RME)

24 License to act as RME in specialty
25 contracting \$200
26 License to act as RME in general engineering
27 contracting \$200
28 License to act as RME in general
29 building contracting \$200

30 (3) Reissuance of a license or issuance of

1 a certified copy of license \$ 5

2 (4) Application for additional classification
3 (Fee shall be charged for each application.
4 More than one classification may be
5 requested on a single application
6 without additional fee) \$ 25

7 (5) Inactive license fee (in lieu of
8 renewal fee) \$ 10

9 (b) The annual fee or inactive license fee shall
10 be paid on or before June 30 of each year for a
11 license year beginning on July 1. Failure, neglect, or
12 refusal of any licensee to pay the annual fee before
13 such date shall constitute a forfeiture of his license.
14 Any such license may be restored upon written applica-
15 tion therefor within one (1) year from such date and
16 the payment of the required fee plus an amount equal
17 to ten per cent (10%) thereof.

18 (c) Upon written request by a contractor and for
19 good cause the Board shall place an active license
20 in an inactive status. The license, upon payment
21 of the annual inactive license fee, may continue
22 inactive for a period of three (3) years after which
23 time it must be reactivated or shall automatically
24 become forfeited. The license may be reactivated at
25 any time within the three-year period by fulfilling
26 the requirements for renewal, including the payment of
27 the appropriate renewal fee.

28 Section 10S15. Action on Application. Within forty-
29 five (45) days after the filing of a proper application

1 for a license and the payment of the required fees, the
2 Contractors License Board shall:

3 (a) Conduct an investigation of the applicant,
4 and in such investigation may post pertinent infor-
5 mation, including but not limited to, the name and
6 address of the applicant, and if the applicant is
7 associated in any partnership, corporation, or other
8 entity, the names, addresses, and official capacities
9 of his associates; and

10 (b) Either issue a license to the applicant or
11 else notify him in writing by registered mail of the
12 Board's decision not to grant the license and
13 specifically notify applicant of his right to have
14 a hearing within fifteen (15) days on the Board's
15 decision. The hearing shall be conducted in accordance
16 with Section 10517.

17 Section 10516. Revocation, Suspension, and Renewal
18 of licenses. (a) The Contractors License Board may
19 revoke any license issued hereunder, or suspend the right
20 of the licensee to use such licenses, or refuse to renew
21 any such license for any of the following causes:

22 (1) Conviction of any felony or misdemeanor
23 involving moral turpitude;

24 (2) Any dishonest or fraudulent or deceitful
25 act as a contractor which causes a substantial damage
26 to another;

27 (3) Pursuing a continued and flagrant course of
28 misrepresentation or of making false promises through
29 advertising or otherwise;

1 (4) Abandonment of any construction project
2 or operation without reasonable or legal excuse;

3 (5) Wilful departure from or wilful disregard
4 of plans or specifications in any material respect
5 without consent of the owner or his duly authorized
6 representative, which is prejudicial to a person
7 entitled to have the construction project or
8 operation completed in accordance with such plans and
9 specifications;

10 (6) Wilful violation of any law of the territory
11 or of any political subdivision thereof, relating to
12 building, including any violation of any applicable
13 rule or regulation of the Department of Public Health,
14 or of any applicable safety or labor law;

15 (7) Failure to make and keep records showing
16 all contracts, documents, records, receipts, and
17 disbursements by a licensee of all his transactions
18 as a contractor for a period of not less than three
19 (3) years after completion of any construction project
20 or operation to which the records refer or to permit
21 inspections of such records by the Board;

22 (8) When the licensee being a copartnership or
23 a joint venture permits any member of such copartnership
24 or joint venture who does not hold a license
25 to actively participate in the contracting business
26 thereof;

27 (9) When the licensee being a corporation per-
28 mits any officer or employee of such corporation who
29 does not hold a license to have the direct management

1 of the contracting business thereof;

2 (10) Misrepresentation of a material fact by
3 an applicant in obtaining a license;

4 (11) Failure of a licensee to complete in a
5 material respect any construction project or operation
6 for the agreed price if such failure is without legal
7 excuse;

8 (12) Wilful failure in any material respect
9 to comply with this Chapter or the rules and regu-
10 lations promulgated pursuant thereto;

11 (13) Wilful failure or refusal to prosecute
12 a project or operation to completion with reasonable
13 diligence;

14 (14) Wilful failure to pay when due a debt
15 incurred for services of materials rendered or
16 purchased in connection with his operations as a
17 contractor when he has the ability to pay or when he
18 has received sufficient funds therefor as payment for
19 the particular operation for which the services or
20 materials were rendered or purchased;

21 (15) The false denial of any debt due or the
22 validity of the claim therefor with intent to secure
23 for licensee, his employer, or other person, any
24 discount of such debt or with intent to hinder, delay,
25 or defraud the person to whom such debt is due;

26 (16) Failure to secure or maintain workmen's
27 compensation insurance;

28 (17) Knowingly entering into a contract with an
29 unlicensed contractor involving work or activity for

1 the performance of which licensing is required under
2 this Chapter; or

3 (18) When the Responsible Management Employee
4 and/or the majority stockholders have, under another
5 corporate or company structure, caused, the non-payment
6 of employces wages and/or the abandonment of alien
7 workers to become a burden on the government.

8 (b) No license shall be suspended for longer than
9 two (2) years and no person whose license is revoked shall
10 be eligible for a new license until the expiration of two
11 (2) years.

12 (c) For purposes of this Section, the Contractors
13 License Board in cooperation and in conjunction with
14 the Department of Public Works, Department of Revenue
15 and Taxation and the Department of Labor may have
16 investigative powers for purposes of carrying out the
17 intent of this Section.

18 Section 10517. Hearings. (a) In every case where it
19 is proposed to refuse to grant a license or to revoke or
20 suspend a license or to refuse to renew a license, the
21 Contractors License Board shall give the person concerned
22 notice and hearing in conformity with the Administrative
23 Adjudication Law. The notice shall be given in writing by
24 registered or certified mail with return receipt requested
25 at least fifteen (15) days before the hearing.

26 (b) In all proceedings before it, the Board and each
27 member thereof shall have the same powers respecting
28 administering oaths, compelling the attendance of witnesses
29 and the production of documentary evidence, and examining

1 witnesses as are possessed by circuit judges at chambers.
2 In case of disobedience by any person of any order of the
3 Board, or any member thereof, or any subpoena issued by
4 it, or him, or the refusal of any witness to testify to
5 any matter regarding which he may be questioned lawfully,
6 any judge of the Superior Court, on application by the
7 Board thereof, shall compel obedience as in the case of
8 disobedience of the requirements of a subpoena issued by
9 the Superior Court, or a refusal to testify therein.

10 Section 10518. Appeal to Superior Court. An
11 applicant who has been refused a license and every licensee
12 whose license has been suspended, revoked, or not renewed
13 may appeal the Contractors License Board's decision to the
14 Superior Court in the manner provided in the Administrative
15 Adjudication Law.

16 Section 10519. Disposition of Fees, Refunds.

17 (a) All fees received by the Contractors License
18 Board under this Chapter shall be deposited by the
19 Executive Secretary with the Treasurer of Guam to the
20 credit of the General Fund.

21 (b) The Board may request the Treasurer of Guam
22 to have any fee erroneously paid to it under this
23 Chapter refunded when the Board deems it just and
24 equitable.

25 Section 10520. Death or Dissociation. No copartnership,
26 joint venture, or corporation shall be deemed to have
27 violated any provision of this Chapter by acting or
28 assuming to act as a contractor after the death or
29 dissociation of a licensee who had the direct management

1 of the contracting business thereof prior to final dispo-
2 sition by the Contractors License Board of an application
3 for a license made within thirty (30) days from the date
4 of the death or dissociation.

5 Section 10521. Violation, Penalty. Any person
6 who violates, or omits to comply with any of the provisions
7 of this Chapter shall be fined not more than Ten Thousand
8 Dollars (\$10,000).

9 Section 10522. Injunction. The Contractors License
10 Board may, in addition to any other remedies available, apply
11 to a judge of the Superior Court for a preliminary or
12 permanent injunction restraining any person from acting
13 or assuming to act or advertising, as general engineering
14 contractor, general building contractor, or specialty
15 contractor, without a license previously obtained under
16 and in compliance with this Chapter and the rules
17 and regulations of the Board and upon hearing and for
18 cause shown, the judge may grant the preliminary or
19 permanent injunction.

20 Section 10523. Exemptions for prior licenses. Any
21 contractor who obtained a valid contractor's license
22 under the existing license statute prior to July 1, 1977
23 shall be exempt from provision of this Chapter relative
24 to application, investigations and examinations. Any
25 contractor with a valid license issued prior to July 1, 1977
26 with a classification different from those enumerated in
27 Section 10506 shall be automatically placed in the appropriate
28 classification without the necessity of complying with the
29 application, investigation and examination provisions of this
30 Chapter. All other provisions shall apply."

1 Section 2. Section 16210 of the Government Code is repealed.

2 Section 3. Section 16212 of the Government Code is repealed.

3 Section 4. Section 16213 of the Government Code is
4 repealed.

5 Section 5. Effective Date. Section 1 of this Act shall be
6 effective upon enactment but the license provisions shall
7 become effective upon the filing of the rules and regulations
8 with the Legislative Secretary but no later than June 30, 1978.

9 Section 6. Sections 2, 3, and 4 shall become effective
10 upon the filing of the rules and regulations pursuant to Section
11 5 of this Act.