§ 1933. Applicability.

(a) The provisions of this chapter shall apply to all new development, as defined in 4 CMC § 1932, which has not received a building permit on July 19, 1993; provided, however, the provisions of this chapter shall not apply to:

(1) Any new residential construction consisting of two or fewer dwelling units.

(2) Alteration or expansion of an existing single family dwelling unit or duplex where no additional units are created and the use is not changed.

(3) The construction of accessory buildings or structures which will not generate additional electrical, water, sewage, or solid waste disposal demands above those already associated with the existing use of the principal building or of the land.

(4) The replacement of a destroyed or partially destroyed multi-family dwelling or commercial building or structure with a new building or structure that will use no additional water, sewer, electrical, or solid waste capacity than the structure being replaced.

(5) Any change in the type of use of a structure or land which will not generate additional electrical, water, sewage, or solid waste disposal demands above those associated with the previous type of use.

(6) New development undertaken by a nonprofit religious or educational organization, where the structure is to be used primarily for religious or educational purposes.

(7) The construction of commercial buildings, structures, or infrastructure located within a Commonwealth Economic Incentive District, to the extent (amount and duration, which shall not exceed 20 years) of an exemption duly granted by the Commonwealth Economic Incentive Authority.

Source: PL 8-23, § 4; amended by PL 9-14, § 2; new subsection (a)(7) added by PL 12-20, § 28(f); amended by PL 24-05, §§ 2, 3 (July 22, 2025).

Commission Comment: PL 9-14, which took effect December 31, 1994, added subsection (6). According to PL 9-14, § 1:

> Section 1. Findings. The Legislature finds that [PL 8-23], the Developer Infrastructure Tax Act of 1993, was intended to impose a new tax on development in the Commonwealth, in order to pay for infrastructure. However, there is no exemption in the law for development done for religious or educational purposes. The Legislature finds that such an exemption is appropriate and desirable.

§ 1934. Developer Tax.

There is hereby imposed upon a developer, as defined by this chapter, a tax in the amount of two percent of the total project cost of new development, as defined in this chapter.

Source: PL 8-23, § 6, modified.

§ 1935. Statement of Total Construction Costs; Administrative Fee.

(a) *Statement.* Upon application for a building permit, a developer shall submit a statement of estimated total project cost and evidence of tax credits, pursuant to 4 CMC § 1943, to the building safety official, who shall verify the accuracy of the statement. The format of the application shall be specified, by regulation, by the Director of Finance, in consultation with the building safety official. A copy of the statement of total project cost and evidence of tax credits shall also be filed with the Director of Finance.

(b) *Filing Fee.* At the time of filing a statement of total project cost and evidence of tax credits, the developer shall pay to the Department of Finance a nonrefundable administrative fee to be set by regulation.

Source: PL 8-23, § 7.

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

§ 1936. Payment of Developer Tax.

(a) *Estimated Payment.* Any person to whom the developer tax under this chapter applies shall pay an estimated payment of the tax based upon the statement of total project cost as verified by the building safety official. Such estimated payment must be paid to the Department of Finance and a receipt therefor presented to the building safety official prior to the issuance of a building permit by the building safety official. The director may authorize by regulation a schedule of payments for payment of the developer tax; provided, however, that the initial payment must be at least 50 percent of the total estimated developer tax due.

(b) If, after the estimated developer tax has been paid and the developer makes a change order which changes the estimated total project cost, the developer shall submit a statement of the change order(s) to the Director of Finance and pay any resultant developer tax due at the conclusion of the project.

(c) *Final Payment.* Upon completion of the project, the developer shall submit a statement of the actual total project cost to the Department of Finance including any adjustments in total project cost resulting from change orders. The developer shall make available documentation to the Department of Finance sufficient to substantiate the total project cost. The developer shall be liable for the total amount of

tax owed under this chapter based on this final total project cost less any previous tax payments or credits which have been received by the Director of Finance and approved for credit against the developer's tax liability. The Director of Finance may require that the statement be audited by a certified public accountant. If the director finds that the estimated total project cost is less than 85 percent accurate with respect to the actual total project cost, including change orders, the developer shall pay the remainder tax due plus a 10 percent penalty.

An occupancy permit shall not be issued by the Building Safety Division unless the developer has paid the remainder of the developer tax due, provided that an occupancy permit may be issued for any reasonably severable portion of the project of which the estimated tax has been paid. If the total estimated project cost including change orders exceeds thirty million dollars and the developer is making payments under a schedule of payments provided for in subsection (a) of this section, upon certification by the Secretary of Finance that the developer is current in its payments an occupancy permit may be issued for any completed portion of the project prior to payment of the remainder of the tax due for the completed project; but if the Secretary of Finance subsequently notifies the Building Safety Division that the developer has failed to make tax payments as scheduled the occupancy permit shall be revised to include only any reasonably severable portion of the project for which the estimated tax has been paid, or revoked, as appropriate.

(d) *Overpayment of Developer Tax.* Any overpayment of the developer tax shall be refunded to the developer within 90 days.

(e) *Unfinished Development.* If a developer purchases an unfinished development in which the previous owner had already paid the estimated developer tax due, the new owner shall not be required to pay the developer tax, provided that he makes no changes on the original scope of the project.

Source: PL 8-23, § 8; second paragraph of subsection (c) amended by PL 11-37, § 2.

Commission Comment: With respect to the references to the "Department of Finance," the "Director of Finance, and the "director" of the Department of Finance, see Executive Order 94-3 (effective Aug. 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.

PL 11-37, which deleted the second paragraph of subsection (c) and replaced it with a new paragraph, took effect September 17, 1998. According to PL 11-37, § 1:

> Section 1. Findings and Purpose. The Legislature finds that:
> (a) The provision in the Developer Infrastructure tax prohibiting the issuance of an occupancy permit for a project subject to the developer tax except upon final payment of the entire tax due on the fully completed project is overly restrictive.

(b) In particular, the time required for the Department of Finance to verify the final tax due on large projects can unduly delay the opening and beneficial use of the project or a portion thereof.

(c) It is the purpose of this act to revise the tax and building safety requirements to permit partial occupancy and use of projects subject to the developer tax under appropriate circumstances and with proper safeguards.

PL 11-37 also contained severability and saving clauses as follows:

Section 4. Severability. If any provision of this act or any regulation issued under the authority of this Act should be declared invalid or unenforceable by a court of competent jurisdiction, the judicial determination shall not affect the Act or the regulations as a whole, or any part thereof, other than the particular part declared invalid or unenforceable, and to this extent the provisions of this Act.

Section 5. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.

§ 1937. Enforcement.

(a) *Administrative Review.* Any appeal of the Director of Finance's decision pursuant to this chapter shall be had in accordance with 1 CMC §§ 9101 *et seq*.

(b) *Judicial Review.* Within 20 days after the final decision of the director is issued, a person aggrieved may appeal the decision to the Superior Court. The Superior Court shall provide an expedited and priority hearing for all cases seeking judicial review of the director's decision.

(c) *Tax Liens: Levy of Executive Authorized.* All developer taxes imposed or authorized under this chapter shall be a lien upon any property of the developer obligated to pay developer taxes and may be collected by levy upon such property in the manner to be prescribed by regulation by the Director of Finance.

(d) *Civil Action of Enforcement.* Any developer tax imposed or authorized under this chapter may also be collected by a civil suit brought by the Attorney General either in the name of the Commonwealth or in the name of the Director of Finance. In such civil suit, a written statement by the director or his designee as to the amount of tax due, the fact that it is unpaid, and who is authorized to collect it, shall be sufficient evidence of these matters unless it is expressly shown to the contrary.

(e) *Penalties for Willful Violations.*

(1) *Willful Failure to Collect or Pay Over Tax.* Any government official or employee required under this chapter to collect, account for, and pay over any

developer tax imposed or authorized by this chapter, who willfully fails to collect or truthfully account for and pay over such tax shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction, shall be fined not more than $10,000, or imprisoned not more than two years, or both, together with the cost of prosecution. Evidence of personal use of any such developer tax so collected by the government official or employee charged with collection, either in his business or otherwise, shall constitute prima facie evidence for willful failure to truthfully account for and pay over such tax in violation of this chapter.

(2) Any person, as defined in this chapter, or his agent, who willfully violates the provisions of this chapter shall be guilty of a felony punishable by a fine of not more than $10,000 or imprisonment of not more than two years, or both.

(3) In addition to the foregoing penalties, any person who knowingly shall swear to or verify under oath any false or fraudulent statement with intent to evade any developer tax imposed by this chapter, shall be guilty of perjury and, upon conviction, shall be guilty of a felony, punishable by a fine of not more than $10,000 or imprisonment for not more than two years, or both.

(f) *Monthly Penalty Upon Taxes.* In case of failure to pay any developer tax levied or imposed by this chapter when due, there shall be added to the amount due 10 percent of the amount of such developer tax if the period of nonpayment is not more than one month, with an additional ten percent for each additional month or fraction thereof during which nonpayment continues, not exceeding 100 percent in the aggregate.

Source: PL 8-23, § 9, modified.

Commission Comment: With respect to the references to the "Director of Finance" and the "director" of the Department of Finance, see Executive Order 94-3 (effective Aug. 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.

§ 1938. Segregation of Funds.

(a) The Director of Finance shall establish and maintain an interest-bearing trust account for each senatorial district into which developer tax payments collected pursuant to this chapter shall be deposited. Developer taxes shall be deposited into the trust account of the senatorial district where the new development shall be located.

(b) The Director of Finance shall keep a complete and adequate accounting for each trust account, showing the source and disbursement of all taxes collected pursuant to this chapter. The Public Auditor shall annually audit these accounts in accordance with 1 CMC §§ 2301 *et seq*.

Source: PL 8-23, § 11.

Commission Comment: With respect to the references to the "Director of Finance," see Executive Order 94-3 (effective Aug. 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.

§ 1939. Use of Funds.

(a) All developer taxes collected pursuant to this chapter shall be used for infrastructure improvements for the benefit of the senatorial district in which the development shall be located. For the purposes of this chapter "infrastructure improvement" shall refer to infrastructure improvements to the following public facilities:

(1) Electrical systems;
(2) Water systems;
(3) Sewerage systems;
(4) Road, drainage and flood control systems; and
(5) Solid waste management systems.

Such improvements include the costs of land, construction, engineering, planning, administration and legal and financial consulting fees associated with the acquisition of the land or the acquisition or construction of the improvement, procurement of equipment, parts and maintenance of equipment.

(b) The developer taxes collected in each account and the interest earned shall be spent solely for purposes specified in this section.

(c) Administrative fees collected pursuant to this chapter shall be used to defray the administrative costs of the developer tax to be incurred by the Building Safety Division and the Department of Finance. The Director of Finance may hire additional staff necessary to implement this chapter pursuant to budgetary appropriations.

Source: PL 8-23, § 12; repealed and reenacted by PL 14-32, § 2(A).

Commission Comment: With respect to the references to the "Building Safety Division" and the "Department of Finance" and the "Director of Finance," see Executive Order 94-3 (effective Aug. 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.

PL 14-32 took effect on October 7, 2004 and contained the following findings and purpose, in addition to severability and savings clause provisions and an amendment to 4 CMC § 1941:

Section 1. Findings and Purpose. The Legislature finds that the CNMI is challenged with managing the work of government with projected reductions in revenue. A critical factor of concern is the maintenance of essential public services. The Legislature finds that funding is unavailable to repair and maintain heavy equipment or other resources necessary in maintaining public safety. The Legislature further finds that funds are available in the Developer Infrastructure Tax Act accounts. The legislature finds that although the developer tax was established exclusively for infrastructure

improvements, each senatorial district should be given the latitude to utilize these funds as necessary.

§ 1940. Physical Development Plans.

The Commonwealth Utilities Corporation shall prepare and present to the respective legislative delegations for adoption detailed physical development plans for the electrical, water, and sewerage systems for each senatorial district. Likewise, the Department of Public Works shall prepare and present to the respective legislative delegations for adoption detailed physical development plans for the road, drainage, flood control and solid waste management systems for each senatorial district. These physical development plans must be submitted to the respective legislative delegations within a year after July 19, 1993. The legislative delegations shall use these plans as a basis for appropriating the dedicated funds in the trust funds established by the Director of Finance pursuant to 4 CMC § 1938.

Source: PL 8-23, § 13.

Commission Comment: With respect to the references to the "Department of Public Works" and the "Director of Finance," see Executive Order 94-3 (effective Aug. 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.

§ 1941. Appropriation Authority.

The funds in the accounts established by the Secretary of the Department of Finance pursuant to this Chapter shall be appropriated by the respective legislative delegation in accordance with the procedures set forth in 1 CMC §§ 1403 and 1405.

Source: PL 8-23, § 14; amended by PL 14-32, § 2(B); repealed and reenacted by PL 15-11, § 2.

Commission Comment: The reference to the "Director of Finance" should instead be to the "Secretary of Finance" pursuant to the reorganization of the executive branch by Executive Order 94-3, which is set forth in the comment to 1 CMC § 2001. PL 14-32 took effect on October 7, 2004 and contained the following findings and purpose, in addition to severability and savings clause provisions and a change to 4 CMC § 1939:

Section 1. Findings and Purpose. The Legislature finds that the CNMI is challenged with managing the work of government with projected reductions in revenue. A critical factor of concern is the maintenance of essential public services. The Legislature finds that funding is unavailable to repair and maintain heavy equipment or other resources necessary in maintaining public safety. The Legislature further finds that funds are available in the Developer Infrastructure Tax Act accounts. The legislature finds that although the developer tax was established exclusively for infrastructure

improvements, each senatorial district should be given the latitude to utilize these funds as necessary.

PL 15-11 was enacted on June 5, 2006, and included the following purpose provision in addition to severability and savings clauses:

Section 1. Purpose. The purpose of this Act is to repeal the section and reinstate the original provision of 4 CMC § 1941 so that it is consistent with the CNMI Constitution.

§ 1942. Repayment of Infrastructure Loans.

Dedicated funds may be appropriated and used as a pledge or collateral to repay or to secure external financing arrangements for infrastructure loans from private or public lending institutions or development authorities incurred after July 19, 1993. Dedicated funds may also be used to satisfy federal matching requirements.

Source: PL 8-23, § 15.

§ 1943. Tax Credits; Connection Fees; Voluntary Contributions.

(a) *Connection Fees.* Connection fees, in excess of actual costs of connection to Commonwealth Utilities Corporation utilities charged to a developer prior to July 19, 1993, by the Commonwealth Utilities Corporation and paid prior to or as a condition of the receipt of a building permit shall be credited against the tax liability created under this chapter. Credits under this subsection shall be applied to the appropriate trust account.

(b) *Coastal Resources Management Voluntary Contributions.* Contributions for infrastructure made by a developer, prior to July 19, 1993, to the Coastal Resources Management office shall be credited against the tax liability created under this chapter. Credits under this subsection shall be applied to the appropriate trust account.

(c) *Credits for Other Infrastructure Payments.* Developer payments toward infrastructure made, prior to July 19, 1993, as a condition of receiving a permit from any agency of the Commonwealth government or as a condition of receiving a public land lease, or legislative approval of such a lease, shall be credited against the tax liability created under this chapter and shall be applied to the appropriate trust account. In the event that the amount of available tax credit exceeds the tax liability created under this chapter, the excess tax credit shall not constitute a right to refund or be used as a credit toward future development projects.

(d) *Credits for Dedicated Capital Improvements.* The value of any capital improvement that the developer dedicated to the electrical, water, sewer, roads, or surface water drainage and flood control systems shall be credited against the tax liability created under this chapter and shall apply to the appropriate trust account; provided, such dedicated capital improvements are accepted after inspection by the authorized representative of the appropriate managing agency or department and the Director of Finance, and are not otherwise reimbursed by the Commonwealth

government. The value of the dedicated capital improvements shall be determined on the basis of an appraisal prepared by an appraiser chosen with the consent of the Director of Finance. In no event shall the value be deemed greater than the reasonable cost to the developer of the dedicated capital improvement. In the event that the amount of tax credit exceeds the tax liability created under this chapter, the excess tax credit shall not constitute a right to a refund or be used as a credit toward future development projects.

Source: PL 8-23, § 16.

Commission Comment: With respect to the references to the "Director of Finance," see Executive Order 94-3 (effective Aug. 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.

§ 1944. Connection Fees.

Nothing in this chapter shall be construed to limit the authority of the Commonwealth Utilities Corporation to impose connection fees for power, water, or sewer services, nor to limit the amount of those connection fees; except that no connection fee may be charged which is higher than the actual cost to the Commonwealth Utilities Corporation to connect the customer to Commonwealth Utilities Corporation facilities.

Source: PL 8-23, § 17.

§ 1945. Coastal Resources Management Office Fees.

Nothing in this chapter shall be construed to limit the authority of the Coastal Resources Management office to impose administrative fees; except that the Coastal Resources Management office shall not require permit applicants to make contributions for infrastructure improvement.

Source: PL 8-23, § 19.

§ 1946. Rules and Regulations.

The director, in consultation with the building safety official, shall promulgate reasonable rules and regulations within 120 days after July 19, 1993, to carry out the intent and purpose of this chapter.

Source: PL 8-23, § 20.

Commission Comment: With respect to the reference to the "director" of the Department of Finance, see Executive Order 94-3 (effective Aug. 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.

CHAPTER 11.

Estate Tax.

§ 1961. Imposition of Tax.

Whenever a federal estate tax is payable to the United States, there is hereby imposed a Commonwealth estate tax on the taxable estate equal to the amount, if any, of the maximum allowable credit for foreign death taxes pursuant to the United States Internal Revenue Code (26 U.S.C.) Section 2014, allowable under the applicable federal estate tax law, which is attributable to property situated in the Commonwealth. In no event, however, shall the estate tax hereby imposed result in a total estate tax liability to the Commonwealth and the United States in excess of the estate tax liability to the United States which would result if this section were not in effect. The term taxable means the taxable estate as that term is used in the United States Internal Revenue Code, (26 U.S.C.) for estate tax purposes.

Source: PL 10-10, § 4 (§ 1731) was repealed by PL 11-52, § 2; section 1962 whose original source is PL 10-10, § 4 (§ 1732) is renumbered to section 1961 and amended by PL 11-52, § 3.

Commission Comment: PL 10-10 took effect June 4, 1996.

PL 11-52 took effect on January 14, 1999. PL 11-52 contained findings and purpose, repealer, amendment, and severability sections as follows:

> Section 1. Findings and Purpose. The Legislature finds that there are technical deficiencies in the enactment of Public Law 10-10. The correction of these deficiencies is necessary in order to achieve the intended purpose of Public Law 10-10, that is, to raise revenue.
>
> …
>
> Section 6. Amendment. All references to the renumbered sections shall be construed to refer to the section numbers as amended.
>
> Section 7. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

§ 1962. Determination of Commonwealth Estate Tax Liability.

The Commonwealth estate tax liability shall be determined in the following manner:

The lesser of

(a) The foreign death tax credit allowable pursuant to IRC Section 2014, or

(b) The product derived by dividing the value of the property situated in the Commonwealth by the value of the gross estate multiplied by the tax imposed under IRC Section 2001 as reduced by the total credits allowable under sections 2010, 2011, and 2012.

Source: PL 11-52, § 4.

§ 1963. Collection and Administration.

The Director of the Division of Revenue and Taxation shall provide for the collection and administration of the tax imposed by 4 CMC § 1961 by rules and regulations promulgated for that purpose.

Source: PL 10-10, § 4 (§ 1733); amended by PL 11-52, § 6.

Commission Comment: The reference to "4 CMC § 1962" in this section is changed to "4 CMC § 1961" pursuant to section 6 of PL 11-52. The full text of section 6 of PL 11-52 is found in the comment to 4 CMC § 1961.

§ 1964. State Death Tax Credit Allowable Against Federal Estate Tax; Property With Situs in the Commonwealth; Determination.

For purposes of this chapter, property situated in the Commonwealth means property in the case where a decedent leaves property having situs in the Commonwealth.

Source: PL 10-10, § 4 (§ 1734); amended by PL 11-52, § 5, modified.

Commission Comment: The reference to "decent" in this section is changed to "decedent" to correct a manifest typographical error.

CHAPTER 12.

Tourism Incentives, Fees and Funds

[repealed by PL 18-1]

Commission Comment: This chapter was formerly entitled "Tax Task Force," which was enacted by PL 9-22 and later repealed by PL 14-35.

§ 1971. Tourism Air Service Stabilization Trust Fund.

[repealed]

Source: PL 17-29 §§ 3 and 5 (Feb. 16, 2011); (a), (d) and (e) repealed and reenacted and (b) and (c) amended by PL 17-58 § 1 (Nov. 4, 2011); changes made by PL 17-58 were repealed by PL 17-75 § 2 (June 4, 2012), modified; PL 18-1 § 2(a) (Mar. 11, 2013), repealed PL 17-75, which amended PL 17-29 as amended by PL 17-58, codified at 4 CMC § 1971, in its entirety; repealed by PL 18-1 (Mar. 11, 2013).

§ 1972. Environmental and Tourism Promotional Act of 2012.
[repealed]

Source: PL 17-58 § 2(101-104) (Nov. 4, 2011); repealed and reenacted by PL 17-75 § 3(101-107) (June 4, 2012), modified; repealed by PL 18-1 (Mar. 11, 2013).

CHAPTER 13.

MPLT Line of Credit

§ 1981. MPLT Line of Credit.

Pursuant to N.M.I. CONST. ART. X Section 3, the CNMI Legislature authorizes a public debt and obligation to the Marianas Public Land Trust for Governor Arnold I. Palacios, through the Secretary of Finance and the Department of Finance, to enter into a Revolving Line of Credit with the Marianas Public Land Trust in an amount not to exceed $15,000,0000 on the following terms and conditions:

(a) The term of the Revolving Line of Credit shall not exceed seven years (84 months) starting from the date of execution of the Revolving Line of Credit between MPLT and the Governor and the Secretary of Finance.

(b) The Office of the Governor and Department of Finance shall repay the Line of Credit as to any drawdowns no later than thirty (30) calendar days from the date of each drawdown.

(c) No further drawdowns shall be made unless and until the prior drawdown is satisfied or MPLT agrees to additional drawdowns.

(d) Any reimbursements received by the CNMI Department of Finance/Office of the Governor from the United States Economic Development Administration paid or remitted to the CNMI Government for CIP project advances that are covered in the MPLT-CNMI Revolving Line of Credit shall be paid directly to MPLT as settlement for the line of credit herein.

(e) The interest rate shall be 5.5% per annum.

(f) Because the Revolving Line of Credit is a public debt this legislation must be passed by two-thirds (2/3) of the members of the House of Representatives and the Senate before being signed into law. Further, the obligation for such a public debt shall not exceed ten percent (10%) of the total appraised value of the properties of the Commonwealth so that the Secretary of Finance shall not execute the Revolving Line of Credit until the Secretary of Finance certifies, with the concurrence of the Attorney General, that this constitutional requirement is satisfied.

(g) The Attorney General shall review the Revolving Line of Credit Agreement for legal sufficiency for the Governor and Secretary of Finance to enter into this transaction in order for the Revolving Line of Credit to be effective against the Commonwealth.

(h) Transactional Documents. The Marianas Public Land Trust and the Commonwealth, acting through the Governor and the Secretary of Finance, shall execute the transactional financial documents for the Revolving Line of Credit through a line of credit agreement, assignment of income, and a Promissory Note. After such documents have been duly executed, MPLT shall authorize and commence any initial drawdown, subject to its terms and conditions, to the Department of Finance which shall be used for the CIP-approved or designated project bridge financing or advances, only.

(i) The Secretary of Finance and the Office of the Governor shall issue a quarterly summary "MPLT Loan Report" which shall be a financial statement detailing the activities of the CNMI Government as to the CIP project advances and status. This MPLT Loan Report shall be submitted to all the members of the Legislature, the Office of the Public Auditor, the Office of the Attorney General, and a copy to MPLT.

(j) Authorization to Defend, Hold Harmless, and Indemnify MPLT. The legislature hereby authorizes, as a condition precedent to the loan agreement being authorized herein, the Commonwealth Government, through the Executive Branch including the Secretary of Finance and Office of the Attorney General, to defend, hold harmless, and indemnify the Trustees of the Marianas Public Land Trust, individually and collectively, along with MPLT's staff, counsel and consultants for any suits, causes of action, litigation, and claims as well as any loss, liability, and expense whatsoever of any kind or nature including but not limited to attorneys' fees which may arise from or that are in any way related to the loan agreement which is the subject of this Act or the events arising therefrom as to MPLT's actions in extending the line of credit. The Commonwealth shall pay for the cost of representation being authorized herein through the Department of Finance without cost to MPLT or provide representation by the CNMI Office of the Attorney General. In the event MPLT is compelled to engage its own counsel or representation of the Commonwealth, the Department of Finance shall reimburse MPLT for such costs and expenses. In the event the CNMI Government fails to reimburse or pay for such costs and expenses, MPLT may withhold further distributions of income until its expenses and costs are fully reimbursed.

Source: PL 23-12, § 2 (Nov. 20, 2023), modified.

Commission Comment: The Commission numbered this section pursuant to 1 CMC § 3806(a).

Legislative Findings.—In addition to severability and savings clause provisions, PL 23-12 included the following Findings and Purposes section: On July 17, 2023, Governor Arnold I. Palacios in a letter signed by the CNMI Senate President and House Speaker, submitted a written request, to the Marinas Public Land Trust. Governor Palacios requested a Line of Credit in the amount of $20 million dollars for "bridge financing or advances" for costs related to federally-funded Capital Improvement Projects ("CIP") from the United States Economic Development Administration whereby the CNMI would be reimbursed for such advances within thirty (30) days of advancing such costs for grant projects. Further, Governor Palacios requested that the line of credit ("LOC") facility be available for a period of 5-7 years while infrastructure and other CIP projects are under construction. The Marianas Public Land Trust has reviewed initial planned drawdown requests by the Governor and has determined that a $15 million Line of Credit is suitable for the amounts needed, in any given 30-day period, during the next few years of forecasted drawdowns offered by the Governor.

In addition to the $20 million LOC request, Governor Palacios also requested that MPLT reduce the interest rate on the CNMI's existing debt obligation to MPLT for the Typhoon Yutu loan, currently at 7.5% per annum. That debt currently stands at approximately $10.7 million dollars as of June 2023 and is being repaid by MPLT's withholding of the annual interest-income distributions to the CNMI General Fund.

MPLT has noted that previously in June 2019 the Trust received the Typhoon Yutu request from the CNMI for $15 million dollars through a line of credit and later converted it to a loan, to pay for "extraordinary expenses made under extraordinary circumstances" for disaster recovery expenses which the former CNMI Secretary of Finance asserted were not normal operating expenses of the government. While the CNMI expected reimbursement from the Federal Emergency Management Agency for disaster-related advances or expenses, the CNMI ultimately could not repay the MPLT Yutu Loan for which MPLT is now servicing as repayment through the withholding of distributions for the next several years.

The legislature acknowledges that the Trustees of MPLT continue to recognize that the $15 million LOC request addressed in this legislation, as with the Yutu Loan, constitutes a public debt obligation for government operations or infrastructure, which have particular requirements under the CNMI Constitution. As such, the legislature is informed that the Trust has set forth certain requirements from the CNMI Government through the Office of the Governor, Secretary of Finance, and the Office of the Attorney General, to ensure the propriety of the requested transaction and ensure capacity for payment.

As one of the requirements by MPLT, the purpose of this proposed legislation is to authorize this public debt by the Commonwealth Government to MPLT for a period not to exceed seven years (84 months) on a Revolving Line of Credit and to ensure that there are adequate funds at the disposal of the CNMI

Department of Finance for purposes of paying that Line of Credit timely and without default. The amount authorized for the LOC from MPLT shall not exceed $15,000,000.

The legislature agrees that, unlike the Yutu Loan, the $15 million LOC is to be repaid by the CNMI Government through the Secretary of Finance on a regular 30-day period following each advance, with reimbursed funds from the Federal government, and with other restrictions on drawdowns imposed by MPLT, such as drawdown limits and drawdown pre-conditions. The LOC and this legislative authorization expire automatically at the end of the 84-month period and shall not be renewed or extended.

For the foregoing reasons, the legislature finds that the $15 million LOC with MPLT is in the best interest of our people and our Commonwealth and authorizes the Executive Branch to enter into such an agreement as required on terms and conditions by MPLT.

CHAPTER 14.

Non-Residential Construction Surtax

§ 1991. Definitions.

For the purposes of this Chapter:

(a) "General Contractor" means the primary entity that contracts for the completion of an entire construction project and is typically responsible for the hiring and coordinating the work of subcontractors; ensuring that the project is completed on time, within budget, and according to the agreed-upon specifications; acting as the main point of contact between the client and the various subcontractors; purchasing of materials; and ensuring that the project adheres to all applicable local and federal laws.

(b) "Qualifying Construction Project" means any construction project, other than construction of Residential Housing, with a total project cost of three

hundred fifty thousand dollars ($350,000.00) or more, inclusive of executed change orders, amendments, and modifications. A construction project is a Qualifying Construction Project if any additions or modifications resulting in changes to the total project cost cause that cost to meet or exceed the threshold of three hundred fifty thousand dollars ($350,000.00).

(c) "Residential Housing" means single-family homes or other standalone dwellings designed for individual households and excludes multi-family units, such as apartments, condominium complexes, commercial residential developments, or other similar shared living structures.

(d) "Subcontractor" means a person or company hired by a General Contractor to perform tasks or services as part of a larger construction project. "Subcontractors" operate under a separate contract from the one between the General Contractor and the client.

Source: PL 23-31, § 2 (Jan. 10, 2025).

Commission Comment: PL 23-31 contained, in addition to savings and severability clauses, a Findings and Purpose section:

Section 1. Findings and Purpose:

The Legislature finds that a 3% surtax on gross revenues derived from non-residential construction projects that cost three hundred fifty thousand dollars ($350,000.00) or more should be imposed.

This tax mitigates the costs to the Commonwealth that are attributable to large scale construction activities, including waste generation, pollution and emission from heavy equipment, damage and stress on roads and infrastructure, erosion and pollution control, and the added costs at the ports of entry associated with increased customs activities to ensure that materials and supplies are not comingled with contraband.

This tax applies specifically to the revenues derived from construction activities with a total project cost of three hundred fifty thousand dollars ($350,000.00) or more. Construction projects below this threshold are not subject to the tax. Moreover, this tax does not apply to residential construction projects.

In addition, construction contractors subject to this tax are entitled to a non-refundable credit against the tax imposed on Commonwealth source income under Subtitle A of the Northern Marianas Territorial Income Tax. The tax shall also be imposed on the total project cost paid by the general contractor, meaning subcontractors are not required to pay the tax.

In summary, this Act implements a 3% surtax on gross revenue derived from non-residential construction projects exceeding three hundred fifty thousand dollars ($350,000.00). As set forth in Section 102, any change orders or modifications initiated, executed, or effective after January 16, 2025 shall subject the amended or modified contracts to this provision if the change order or modification brings the contract within the scope of the Qualifying Construction Project. This includes but is not limited to retroactively applying to all contracts executed

prior to January 16, 2025 even if the original contracts did not originally fall within the definition and scope of the contract Qualifying Construction Project absent the change order or modification.

By focusing on these larger developments, this Act ensures that projects placing greater strain on public services and the environment contribute their fair share toward mitigating those impacts. Additionally, by excluding the residential construction, this Act preserves affordability of homes for local residents. Last, the inclusion of a non-refundable credit for contractors subject to this surtax offers some relief from the financial burden.

§ 1992. Tax Imposition on Gross Revenues from Qualifying Construction Projects.

(a) In addition to the tax imposed under Chapter 3 of Division 1 of Title 4 of the Commonwealth Code and unless expressly exempted herein, a tax of 3% shall be imposed on the gross revenues of a General Contractor that are directly attributed to or derived from a Qualifying Construction Project.

(b) For the purposes of subsection (a), the gross revenue surtax shall exclude revenues generated by or derived from construction of Residential Housing.

(c) Revenues of a Subcontractor that are derived from construction activities performed on a Qualifying Construction Project are exempt from the tax imposed by this Section.

(d) Revenues from construction activities derived from Qualifying Construction Projects arising from contracts awarded on or before January 15, 2025, are exempt from the tax imposed by this Section. The tax imposed by this Section shall apply to any and all Qualifying Construction Projects arising from contracts awarded or executed on or after January 16, 2025.

Provided further that any change orders or modifications initiated, executed, or effective after January 16, 2025 shall subject the amended or modified contracts to this provision if the change order or modification brings the contract within the scope of the Qualifying Construction Project, including but not limited to retroactively applying to all contracts initiated, executed, or effective prior to January 16, 2025 that did not originally fall within the definition and scope of the Qualifying Construction Project absent the change order or modification.

Source: PL 23-31, § 2 (Jan. 10, 2025).

§ 1993. Non-refundable Tax Credit.

(a) A person may take the surtax imposed on gross revenue under Section 102 as a non-refundable tax credit against any taxes imposed on Commonwealth source income under Subtitle A of the NMTIT pursuant to Chapter 7 of Division 1 of Title 4 of the Commonwealth Code (4 CMC §§ 1701 et. seq.). No such credit shall be allowed for any amount deducted in determining taxable income under the NMTIT as shown on the taxpayer's return.

(b) Partners and S corporation shareholders may take their respective share of taxes imposed on gross revenues reported and paid by their respective partnerships and S corporations under Section 102 of this Chapter as a nonrefundable credit against the tax imposed on Commonwealth source income under Subtitle A of the NMTIT pursuant to Chapter 7 of Division 1 of Title 4 of the Commonwealth Code (4 CMC §§ 1701 et. seq.); provided, that the total of all such credits shall not exceed the total taxes and fees paid. No credit shall be allowed under this subsection (b) for the amount of any taxes taken as a credit under subsection (a) of this section.

(c) No such credit shall be allowed for any amount deducted in determining taxable income under the NMTIT as shown on the taxpayer's return.

Source: PL 23-31, § 2 (Jan. 10, 2025).

§ 1994. Returns and Payment of Tax.

(a) *In General.* Every person subject to this Chapter shall file a return and pay the tax, if any, on a monthly basis. The Secretary of Finance shall by regulation prescribe monthly rates as necessary to carry out the intent and purpose of this section.

(b) *Filing Returns and Payment.* The monthly returns and tax payments under subsection (a) of this Section shall be filed and the tax paid, if any, on or before the last day of the month following the close of each month, to wit: on or before February 28, March 31, April 30, May 31, June 30, July 31, August 31, September 30, October 31, November 30, December 31, and January 31. The payment shall be based on the payors gross revenue derived from Qualifying Construction Projects in the preceding month, and the amount of tax imposed by this Chapter shall be paid to the Commonwealth government through the secretary or his appointee or appointees. Each business shall, on or before the date provided for payment of tax under this Section, make a full, true, and correct return showing all such gross revenue derived from Qualifying Construction Projects that are received, accrued, or earned, whichever is earlier, and the amounts deducted and set aside on

account during the preceding month. This return shall be filed with the secretary and include such other information as may be required or 29prescribed by the secretary. The secretary for good cause, may extend the time for making payments and returns, but not beyond the last day of the first month succeeding the regular due date.

(c) *Tax Returns of Transferor.* The requirement to deduct, withhold and pay over tax for the account of the transferor shall not relieve the transferor from the duty to file any tax returns required by law.

(d) *Penalty.* Failure to comply with the provisions of this Section shall be punishable under the penalties prescribed by this Division.

Source: PL 23-31, § 2 (Jan. 10, 2025), modified.

Commission Comment: The Commission spelled out "August" under section (b) pursuant to 1 CMC § 3806(g).

§ 1995. Special Gross Revenues from Qualifying Construction Projects (GRQCP) Account.

(a) The Secretary of Finance shall establish a special Gross Revenues from Qualifying Construction Projects (GRQCP) account separate from the General Fund. The funds in the GRQCP account shall not be subject to fiscal year limitation and shall be used for the implementation and enforcement of this Chapter.

(b) All revenues raised pursuant to this Chapter shall be deposited into the General Fund, except:

(i) ten percent shall be deposited in the special GRQCP account established by this Section, for appropriation by the Legislature as follows:

(1) twenty percent of the GRQCP funds shall be appropriated for implementation and enforcement of this Chapter and customs activities as follows:

(A) 2.5% shall be appropriated each to the First and Second Senatorial District to the municipal Department of

Finance, under the expenditure authority of the respective Resident Department Head; and

(B) 15% shall be appropriated to the Third Senatorial District to the CNMI Department of Finance, under the expenditure authority of the Secretary of Finance.

(2) eighty percent of the GRQCP funds shall be appropriated for road maintenance, solid waste, and environmental protection purposes in the First, Second and Third Senatorial Districts as follows:

(A) 15% shall be appropriated each to the First and Second Senatorial District to the municipal Department of Public Works, under the expenditure authority of the respective Resident Department Head; and

(B) 50% shall be appropriated to the Third Senatorial District to the CNMI Department of Public Works, under the expenditure authority of the Secretary of Public Works.

(c) The Secretary of Finance shall provide monthly reports to the presiding officers of the Legislature describing the total funds in the GRQCP.

Source: PL 23-31, § 2 (Jan. 10, 2025).