

§ 6001. Short Title.

This part may be cited as the “Northern Mariana Islands Election Law.”

Source: DL 5-19, § 1; PL 12-18, § 1, repealed and reenacted by PL 12-18, § 2.

Commission Comment: DL 5-19 took effect September 6, 1977. According to DL 5-19, § 2: “This Act shall remain in force in the Northern Mariana Islands after the effective date of the Constitution [January 9, 1978] until it is amended or repealed.” Except for the omission of obsolete materials and changes in form, this part restates the substance of the Northern Mariana Islands Election Act of 1977.

According to DL 5-19, § 19: “All election laws of the Trust Territory of the Pacific Islands, the Marianas District, and any Municipal charter or ordinance as they affect the elections in the Northern Mariana Islands, are hereby repealed.” Repealed laws included 43 TTC §§ 1-455, MIDC ch. 2.32, Saipan Municipal Charter art. IV, §§ 1-4, Saipan Municipal Code title 2, §§ 1-51, Rota Municipal Charter art. IV, § 1 and Rota Municipal Code chs. 2.10 and 2.14.

Pursuant to its authority to rearrange sections to fit harmoniously within the code, in the January 1997 revision the Commission divided title 1, division 6 into two parts (“Northern Mariana Islands Election Act” and “Other Election-Related Provisions”) and designated this chapter as the first chapter of the first part; the Commission did not change any section numbers. The Commission took this action because chapter one of part two (the Executive Transition Act) is not part of the Northern Mariana Islands Election Act.

PL 12-18 became effective on September 14, 2000. PL 12-18 contained the following repealer and reenactment provision, transition provision, severability, and savings clause:

Section 2. Repealer and Reenactment. 1 CMC, Division 6, Part 1 is hereby repealed and reenacted ...

Section 3. Transition Provisions.

(a) The incumbent chairman and members of the Commonwealth Board of Elections and the executive director thereof shall serve as interim chairman, members, and executive director of the Election Commission established by this Act until their successors have been duly appointed and qualified pursuant to this Act.

(b) No person registered to vote on the effective date of this Act shall be required to re-register under the Election Law as reenacted by this Act, and the register of voters maintained by the Board of Elections on the effective day of this Act shall be the initial register of voters for the Election Commission.

Section 4. 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.

Section 5. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under con-

tract 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.

§ 6002. Purpose.

The purpose of this part is to establish procedures and requirements for the registration of voters and the conduct of elections within the Commonwealth of the Northern Mariana Islands.

Source: DL 5-19, § 2, modified; repealed and reenacted by PL 12-18, § 2 (6002).

Commission Comment: See N.M.I. Const. art. VII, §§ 1 and 3 (concerning voter qualifications and legislative authority to set eligibility standards) and art. VIII, § 3 (legislative authority to prescribe election procedures).

§ 6003. Definitions.

The following terms, whenever used or referred to in this part, shall have the following meanings, except in those instances where the context clearly indicates otherwise:

(a) “Absentee Voter” means any voter casting a ballot in any way other than at the polling place.

(b) “Attorney General” means the Attorney General of the Commonwealth of the Northern Mariana Islands.

(c) “Ballot” means any printed paper issued by the Commission containing the names of the persons to be voted for, the offices to be filled, the questions or issues to be voted on, and a seal of the Commission. A ballot may consist of one or more pieces of paper depending on the number of offices, candidates to be elected thereto, or questions or issues to be voted on.

(d) “Commission” means the Commonwealth of the Northern Mariana Islands Election Commission.

(e) “Candidate” means a person who is either seeking a nomination or is proposed for a nomination by sponsors in accordance with the provisions of this part.

(f) “Commonwealth” means the Commonwealth of the Northern Mariana Islands.

(g) “Constitution” means the Constitution of the Commonwealth of the Northern Mariana Islands.

(h) “District” means an election district.

(i) “Domicile” means that place in which a person maintains a residence with the intention of continuing that residence for an unlimited or indefinite period, and to which that person has the intention of returning whenever absent, even for an extended period.

(j) “Elector” means any person who is entitled to register under the provisions of this part.

(k) “General Election” means an election held throughout the Commonwealth every two years on the first Tuesday after the first Monday in November on even number years.

(l) “Local Election” means a municipal, senatorial district, or may election district election held in the Commonwealth.

(m) “Nominee” means a candidate who has become entitled under the provisions of this part to a place on the ballot.

(n) “Precinct” means the election district.

(o) “Recognized Political Party” means any political party, group, or organization untied for the purpose of promoting a common political end or carrying out a particular line of political policy and which:

(1) Has duly constituted leaders or officials, including a secretary; and

(2) Has filed with the Election Commission under such uniform regulation as the Commission may reasonably prescribe evidence of the lawful creation of the party and election of its chairman, secretary, and treasurer, including their addresses; and

(3) Has received, at the most recent general election, in the event it had a candidate for each of the offices to be filled, a total number of votes of not less than ten percent of the total number of voters who voted in the general election; or in the event it had a lesser number of candidates than there were offices to be filled, each such party candidate received a total number of votes of not less than ten percent of the total number of voters who voted in the precinct election.

(p) “Register” means the list of registered voters prepared and bound by the Commission.

(q) “Registration Clerk” means any authorized staff of the Commission or any person authorized by the Commission to register electors, and other officers charged with the duty of registering electors.

(r) “Residence” means that place in which a person’s habitation is fixed, and to which, whenever the person is absent, the person has the intention to return; however, a person who is temporarily out of the Commonwealth or the election district for reasons of business, education, government representation, military service, medical referral, medical reasons, natural disaster or environmental conditions, or employment by the Commonwealth, even for an extended period, shall be considered a resident of the Commonwealth and the election district if during that period, he maintains a domicile in the Commonwealth and election district.

(s) “Voter” means a person duly registered to vote under the provisions of this part.

(t) “Serving a Sentence for a Felony” includes persons imprisoned on parole, probation, or under a suspended sentence.

Source: PL 12-18, § 2 (6003); (o)(3) amended by PL 13-57, § 2, modified; subsection (k) amended by PL 18-46 § 2 (Apr. 23, 2014).

Commission Comment: PL 13-57 was enacted on July 29, 2003. PL 13-57 contained the following findings:

Section 1. Findings. A dispute has arisen over the intent behind paragraph 3 of § 6001(o) of PL 12-18, to be codified at 1 CMC § 6003(o)(3). This subsection defines the term “recognized political party” which would have a right to a place on the ballot in any election and to have the names of its candidates identified accordingly. Paragraph 3 provides that a recognized political party, among other things, must have “received, at the most recent general election, in the event it had a candidate for each of the offices to be filled, not less than (10%) of the total votes cast therein; or in the event it had a lesser number of candidates than there were offices to be filled, each such party candidate received not less than ten percent (10%) of the total votes cast for the office to which the candidate sought election.” Section 6004 further provides that a recognized political party which fails to poll on any general election, the percentage of votes cast as required under paragraph 3 would lose recognition as a recognized political party and would be denied a place in the ballot unless it complies with paragraphs (1) and (2) of subsection (o).

A controversy has arisen regarding the interpretation of the final clause of paragraph (o). Specifically, in the last election each of the recognized political parties had a lesser number of candidates than there were offices to be filled. As a result, each party candidate had to receive at least “ten percent (10%) of the total votes cast for the office to which the candidate sought election.” The controversy involves whether any of the political parties complied with this provision in the last election and, thus continue to be recognized political parties for the next election without taking any additional actions.

The dispute specifically revolves around the Saipan representative precincts. For these precincts, there are three to six winning candidates. The Commonwealth Election Commission has taken the position that each candidate has run for the same office and therefore must secure ten percent of the total votes cast for all the candidates for all the seats in the precinct. The result of this interpretation is that none of the political parties recognized in the last election automatically qualify to be recognized in this upcoming election under paragraph (o).

Several political parties have taken the position that for the Saipan Representative precincts the term “office” refers to each seat that a winning candidate can secure. Thus, they maintain that each candidate must secure votes equal to ten percent of the total number of voters who voted in the precinct election. This is the correct interpretation and this Act amends the “Northern Mariana Islands Election Reform Act of 2000” to clarify that this construction is [the] Legislature’s original intent in including paragraph (3) in Public Law No. 12-18. Accordingly, under this interpretation, all of the political parties recognized in the last election would continue to be recognized in the next general election since their candidates garnered the requisite number of votes in the last election.

PL 18-46 (Apr. 23, 2014) contained, in addition to savings and severability clauses, the following Findings and Purpose section:

Section 1. Findings and Purpose. The Legislature finds that existing election laws need to be revised to incorporate recent changes. Amendments to existing language include amending the general election day to reflect Tuesday after the first Monday in November on even number years; ballots that shall contain the names of candidates for Attorney General; Qualifications for candidates seeking the Attorney General position; Nomination of the Attorney General; Runoff Election for the Attorney General; and etc. In addition, the Committee revised the provision to amend certain provisions of the election law to be consistent with the NMI Constitution, save costs and remove any inconsistencies with existing election law provisions. Furthermore, amendments were made to provide that the Office of the Public Auditor assist the Election Commission in monitoring the polling places to prevent and detect any fraud and any abuse at the polling places during special elections, early voting, and election day.

Accordingly, the purpose of this legislation is to revise existing election laws.

STATUTES

Particular Terms

— Domicile

“Domicile” is defined in 1 CMC § 6003(i) as that place in which a person maintains a residence with the intention of continuing that residence for an unlimited or indefinite period, and to which that person has the intention of returning whenever absent, even for an extended period. *Rebuenog v. Aldan*, 2010 MP 1 ¶ 26 (2010).

A court must apply the definition of 1 CMC § 6003 in conjunction with the factors set forth in 1 CMC § 6202. Section 6003(i) explicitly states that an individual can be away from a place “even for an extended period” and still remain a domiciliary of that place. 1 CMC § 6003(i). Extended absences do not automatically change one’s domicile. *Rebuenog v. Aldan*, 2010 MP 1 ¶ 28 (2010).

§ 6004. Political Party: Rights.

In addition to any other rights accorded in this part to a political party, a recognized political party shall have the right to a place on the ballot, in any election, and to have the names of its candidates identified thereon with the party’s name or other official designations. Any recognized political party which shall fail to poll on any general election, the percentage of total votes cast as required by [Section 6003\(o\)\(3\)](#) shall lose its recognition as a recognized political party, and shall be denied a place upon the ballot unless it complies with the provisions of [Section 6005](#).

Source: PL 12-18, § 2 (6004); PL 14-87, § 2(a); amended by PL 15-7, § 2.

Commission Comment: PL 14-87 was enacted on September 19, 2005, and contained, in addition to an amendment to [1 CMC § 6303](#), findings and intent, applicability, and severability provisions. According to PL 14-87:

Section 1. Findings and Intent. The Legislature finds and declares that the republican form of government functions best, and the people of the Commonwealth are therefore best served, when legislators are popularly elected in spirited contests in which the people are free to choose from the widest range of qualified candidates.

The Legislature finds that the Election Law of the Commonwealth of the Northern Mariana Islands imposes upon candidates for the House of Representatives certain qualifying restrictions which are not imposed on senatorial or mayoral candidates.

The Legislature intends to remove certain qualifying restrictions which are imposed on candidates for the House of Representatives, and to make the new qualifications apply prospectively as well as apply retroactively to all persons who filed to have his or her candidacy for the November 5, 2005 general election certified by the Commonwealth of the Northern Mariana Islands Election Commission. The Legislature finds that this Act is necessary and is a proper use of the Legislative power.

...

Section 3. Applicability. The provisions of this Act shall apply prospectively and further apply retroactively to all persons who filed candidacy nomination petitions for the November 5, 2005 general election. Notwithstanding any other law, rule or regulation to the contrary, the Northern Mariana Islands Election Commission shall have two weeks from the effective date of this Act to reconsider its actions regarding the certification of the candidacies of people to whom this Act applies retroactively.

PL 15-7 was enacted on April 26, 2006, and contained the following findings and purpose provision in addition to a savings clause:

Section 1. Findings and Purpose. The Legislature finds in comparing the accuracy of valid votes between the 2003 and 2005 general elections, valid votes increased substantially in the 2005 general election. In races where there are multiple candidates, the number of over votes was substantially higher in the 2003 general election. For the House of Representatives in the First Election District, 18% of the votes had invalid markings and thus were not counted. For the same election district, for the six seats in the 2005 general election, 99.17% of all the votes were correctly marked. In the race for the sole senate seat for the Third Senatorial District in the 2003 general election, 21% of votes were over votes and thus were not counted. In the 2005 general election, for two senate seats for the Third Senatorial District, 99.27% of all markings were valid. The race for Resident Representative to the United States presents an even more impressive 99.83% valid votes and the race for governor and lieutenant governor was 99.52% valid votes.

The Legislature further finds that it is in the best interest of the public to follow the ballot design used in the 2005 general election because it promotes less confusion and results in greater percentage of valid votes.

§ 6005. Formation of New Political Parties.

Any number of voters may organize to form a political party, which may have a place on the ballot and have the names of its candidates identified thereon with the party's name by complying with Section 6003(o)(1) and (2).

Source: PL 12-18, § 2 (6005).

§ 6006. Continuity of Democratic, Republican and CNMI Reform Parties.

The Democratic, Republican, and CNMI Reform parties shall be deemed to have complied and qualified under the provisions of this part on its effectiveness.

Source: PL 12-18, § 2 (6006).

§ 6007. Disclosure Requirement.

Within fifty days after an election, all political parties shall file:

(a) A statement with all the names and contributions of all persons, as defined in [1 CMC § 6421](#), contributing in cash or in-kind, except where the aggregate fair market value of an expense or contribution is less than five-hundred dollars, and

(b) A detailed statement of campaign spending for expenditures in excess of \$100.

Source: PL 13-57, § 3, modified.

Commission Comment: PL 13-57 was enacted on July 29, 2003. See the comment to [1 CMC § 6003](#) regarding PL 13-57.

PART 1

NORTHERN MARIANA ISLANDS ELECTION LAW

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CHAPTER 1.

Election Commission.

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§ 6101. Election Commission: Establishment.

There is hereby established an Independent Election Commission in the Commonwealth government to be known as the “Commonwealth of the Northern Mariana Islands Election Commission.”

Source: DL 5-19, § 4, modified; repealed and reenacted by PL 12-18, § 2 (6101).

§ 6102. Election Commission: Composition.

The Commission shall have nine (9) members appointed by the Governor subject to the advice and consent of the Senate. Five members shall be residents of Saipan and the islands north of Saipan, two members shall be residents of Rota, and two members shall be residents of the islands of Tinian and Aguiguan. No person may be appointed a commission member who is not a registered voter of the Commonwealth.

Source: PL 12-18, § 2 (6102).

§ 6103. Election Commission: Term of Appointment.

(a) Members shall serve a term of four years, except that of the members first appointed, two shall serve for a term of one year, two shall serve for two years, two shall serve for three years, and three shall serve for four years. Upon the expiration of the term of a member of the Commission, such person shall cease to

be a member unless reappointed in the manner prescribed by law. No appointee may act as a Commission member until confirmed by the Senate.

(b) If a vacancy should occur on the Commission said vacancy shall be filled for the remainder of the term only by the method originally prescribed for the appointment.

Source: DL 5-19, § 4, modified; repealed and reenacted by PL 12-18 (6103); subsection (a) amended by PL 16-29 § 1, modified.

Commission Comment: PL 12-18 reinstated the mechanism for staggering the terms of the first members appointed to the Commission in order that the terms of members expire at different times. The section that addressed the terms of appointment of members was previously codified as 1 CMC § 6102.

The Commission modified this section pursuant to [1 CMC § 3806\(e\) and \(f\)](#). PL 16-29 became effective February 18, 2009 and contained severability and savings clause provisions.

§ 6104. Election Commission: Election of Chairperson.

The Commission shall annually elect one of its members as Chairperson and one of its members as Vice-Chairperson, by a majority vote.

Source: DL 5-19, § 4, modified; repealed and reenacted by PL 12-18, § 2 (6104); amended by PL 17-11 § 2 (August 12, 2010).

Commission Comment: The election of a chairperson was previously codified as 1 CMC § 6103.

§ 6105. Election Commission: Duties.

The Commission shall have the following powers and duties:

- (a) To appoint an Executive Director to be its executive officer.
- (b) To administer all general, primary, local, and special elections, including questions pertaining to initiatives, referenda and recalls in the Commonwealth.
- (c) To designate and publicize polling places within electoral district not later than fifteen (15) calendar days before an election day. Such polling places may include public facilities, such as schools and other public buildings.
- (d) To appoint poll supervisors for each election district and provide a complete list of registered voters in each election district. All poll supervisors so appointed shall be registered voters.
- (e) To promulgate rules, regulations, and instructions necessary to conduct and administer elections, including questions pertaining to initiatives, referenda, recalls, and voter registration.
- (f) To promulgate rules and regulations pertaining to registration by mail, nomination of candidates, voting procedures, and a system for absentee voting.
- (g) To promulgate rules and regulations pertaining to procedures to be followed respecting the receipt and investigation of, and the actions taken on, complaints of election irregularities.
- (h) To promulgate a manual of administrative procedures to be used in the conduct of elections. The manual shall include the regulations to be followed by

all election officials as well as descriptions of the necessary equipment and forms to be used in any election.

(i) To summon and examine witnesses and to maintain order during any of its official duties.

(j) To conduct or coordinate any and all public education activities and events on any and all initiatives for local or general law, all proposed amendments to the NMI Constitution, all referenda and recall in the Northern Mariana Islands. The Commission may conduct the public education by deciding to make public the summaries of the text of any issues that may be proposed to be placed in the ballot. Subject to the availability of funds, the Commission may conduct any, part or all public education using newspapers with wide circulation in the Northern Mariana Islands, television and radio stations that broadcast widely in the Northern Mariana Islands, meetings within the individual election districts in each senatorial district, and the use of the Commission's website. Rather than publishing the entire text of any issue or question that is the subject of a public education, the Commission may, at its discretion, determine it necessary to publicize summaries of the initiatives, issues or questions. The Attorney General, or an attorney or attorneys licensed to practice law in the Northern Mariana Islands selected by the Commission, shall prepare all summaries that may be necessary under this section. All printed publications shall be in the Chamorro, Carolinian, and English languages. In the absence of an appropriation of funds for public or voter education to be conducted pursuant to this section or part, the Governor shall, notwithstanding any other provision of law, reprogram funds determined by the Commission as sufficient to carry out the provisions of this section or part, from executive branch accounts to the Election Commission. The executive director shall also have the authority, if in his discretion he finds it necessary, to contract out any or all parts of the conduct of public or voter education as may be required by this section.

Source: DL 5-19, § 5, modified; repealed and reenacted by PL 12-18, § 2 (6105); (j) amended by PL 14-57, § 2.

Commission Comment: The duties of board members was previously codified as 1 CMC § 6104. See the Commission comment to [1 CMC § 6001](#) regarding PL 12-18. PL 14-57 was enacted on January 27, 2005, and contained the following findings, along with severability and savings clause provisions:

Section 1. Findings. The Legislature supports the right of citizens of the Northern Mariana Islands to bring issues directly to the people through the initiative process by proposing initiatives and referenda. With this right comes the responsibility to adequately and fairly educate the public on issues or questions that will be placed on the ballot.

§ 6106. Election Commission: Quorum.

Five (5) members of the Commission shall constitute a quorum to conduct official business; provided, however, that at least one member from each senatorial

rial district is present. All decisions of the Commission shall be made by three-fourths (3/4's) vote of the members.

Source: DL 5-19, § 4, modified; repealed and reenacted by PL 12-18, § 2 (6106).

Commission Comment: The section dealing with a quorum of members was previously codified as 1 CMC § 6105.

§ 6107. Election Commission: Compensation and Expenses.

Members of the Commission are to receive compensation in the amount prescribed by [1 CMC § 8247\(a\), \(b\) and \(c\)](#).

Source: DL 5-19, § 4, modified; repealed and reenacted by PL 12-18, § 2 (6107).

§ 6108. Election Commission: Restriction on Activities.

No Commission member shall be a candidate for public office or hold an elected position or a position which is filled by appointment by the Governor. Commission members and employees shall not campaign during their tenure. A Commission member shall be removed only pursuant to Article III, Section 21 of the Commonwealth Constitution.

Source: DL 5-19, § 4, modified; repealed and reenacted by PL 12-18, § 2 (6108).

§ 6109. Election Commission: Executive Director; Power and Duties.

(a) The executive director shall be responsible for the administration of this part and the rules and regulations promulgated thereunder. He shall supervise all Commonwealth elections. He shall be in full charge and control of the employees, operation and activities of the Commission.

(b) The executive director shall be responsible to maximize the registration of eligible electors throughout the Commonwealth. In maximizing registration the executive director may conduct surveys, carry on house to house canvassing, and other activities necessary to ensure maximum registration.

(c) The executive director shall maintain data concerning registered voters, elections, apportionment, and districting.

(d) The executive director shall employ poll workers and poll supervisors necessary to conduct elections and administer the commission's other duties and responsibilities. Such employees shall be hired from lists of individuals recommended by the recognized political parties in such a manner as to ensure a fair representation of all recognized political parties in the total cohort. All such employees shall receive training and certification in procedures, ethics, tasks, and responsibilities prior to being assigned any duties.

(e) The executive director shall prepare and provide printed ballots or voting machines, private voting booths, tally sheets, and other materials necessary to conduct an election in each polling place.

(f) The executive director shall serve as the ex-officio secretary for the Commission, but shall not be a voting member thereof. He shall keep the minutes of

its proceedings, preserve all reports made to it, keep a record of all examinations held under its directions, and perform such other duties as the Commission shall prescribe.

(g) The executive director shall be exempt from civil service and shall receive an annual salary as determined by the Commission pursuant to [1 CMC § 8246](#). The executive director shall only be removed for cause after he is afforded a hearing and upon the concurrence of three-fourths (3/4) of the Commission members.

Source: PL 12-18, § 2 (6109); subsection (d) amended by PL 18-46 § 3(a) (Apr. 23, 2014), modified.

Commission Comment: The Commission corrected the spelling of the word “commission’s” in subsection (d) pursuant to [1 CMC § 3806\(g\)](#).

§ 6110. Election Commission: Administrative Staff.

The executive director is authorized to employ such staff as may be required to supervise Commonwealth elections; maximize registration of eligible voters throughout the Commonwealth; maintain data concerning registered voters, elections, apportionment, and districting; and to perform other duties as necessary to carry out the intent of this part pursuant to budgetary appropriation.

Source: PL 12-18, § 2 (6110).

§ 6111. Election Commission: Exemption from Civil Service.

(a) Beginning 90 days after the effective date of this part, the CNMI Election Commission shall no longer be part of the Civil Service System and the employment of Commission staff shall no longer be subject to Civil Service Rules.

(b) The employees of the Commission shall be exempt from application of the Commonwealth Civil Service Act ([1 CMC §§ 8101 et seq.](#)), except that the protections and prohibitions of [Sections 8141](#), [8142](#), [8145](#), and [8151](#) through [8153](#) shall apply to the employees of the Commission to the same extent and in the same manner as if the employees of the Commission were members of the Civil Service.

(c) Within 90 days after the effective date of this part, the Commission shall develop, adopt and administer a merit based personnel system that rewards productivity and service, provides management flexibility, and includes procedures for addressing employee grievances. The Commission may, however, authorize the Office of Personnel Management, or its successor, to administer the provisions of the personnel system adopted for the Commission.

Source: PL 12-18, § 2 (6111).

CHAPTER 2.

Registration and Voting Procedures.

§ 6201. Voting: Eligibility.

- § 6202. Domicile: Determination.
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- § 6217. Early Voting: Criteria for Early Voting.
- § 6218. Early Voting: Photo Identification.
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- § 6222. Early Voting: Period for Early Voting; Hours.
- § 6223. Temporary Branch Polling Places.
- § 6224. Schedule of Locations and Times for Early Voting.

§ 6201. Voting: Eligibility.

(a) Pursuant to Article VII, Section 1 of the Constitution of the Commonwealth of the Northern Mariana Islands, a person is eligible to vote who, on the date of the election, is 18 years of age or older, is domiciled in the Commonwealth, is a resident in the Commonwealth and has resided in the Commonwealth for a period of time provided by law, is not serving a sentence for a felony, has not been declared by a court to be of unsound mind, and is either a citizen or national of the United States.

(b) Pursuant to Article VII, Section 2 of the Commonwealth Constitution, a person shall not be denied the right to vote because that person is unable to read or write.

(c) Under the authority of Article VII, Section 1 of the Commonwealth Constitution, no person shall be eligible to vote who has not resided in the Commonwealth at least 120 days prior to the election day.

(d) Consistent with Article VII, Section 1 of the Commonwealth Constitution, no person who is confined to a mental institution shall be eligible to vote.

(e) In accordance with Article VII, Section 1 of the Commonwealth Constitution, no person serving a sentence for a felony, as defined by Section 6003(t) of this part, shall be eligible to vote.

(f) No person shall register or vote in any other precinct than that in which the person resides.

Source: DL 5-19, § 6, modified; last sentence added by PL 11-118, § 1(a); repealed and reenacted by PL 12-18, § 2 (6201).

Commission Comment: See N.M.I. Const. art. VII, §§ 1-3.

PL 11-118 that added the last sentence of this section took effect on January 25, 2000. PL 11-118 contained a severability clause as follows:

Section 2. 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.

PL 12-18 became effective on September 14, 2000.

ELECTIONS

Voters

— Qualification, Challenge to

Under 1 CMC § 6201(f), no person shall register or vote in any other precinct than that in which the person resides. Residency requirements are established in 1 CMC § 6204, which states that the residence of a person is that place in which the person's habitation is fixed, and to which, whenever the person is absent, the person has the intention to return. Moreover, a person does not gain residence in any precinct into which the person comes without the present intention of establishing the person's permanent dwelling place within such precinct. *Rebuenog v. Aldan*, 2010 MP 1 ¶ 18 (2010).

§ 6202. Domicile: Determination.

A person's domicile shall be determined in accordance with the following:

- (a) Each person has a domicile;
 - (b) Each person has only one domicile;
 - (c) A person's domicile is the place where the person resides when not called elsewhere to work or for other temporary purposes;
 - (d) A person cannot lose a domicile until he or she acquires a new domicile;
- and
- (e) A person's domicile may be changed by joinder of acts and intent.

Source: DL 5-19, § 6; repealed and reenacted by PL 12-18, § 2 (6202).

Commission Comment: See N.M.I. Const. art. VII, § 3. The current § 6202 is similar to the former § 6203.

STATUTES

Particular Terms

— Domicile

1 CMC § 6202 stresses that a person's domicile is the place where the person resides when not called elsewhere to work or for other temporary purposes,

and that the intent of the party to acquire a new domicile is a critical factor in a domicile determination. *Rebuenog v. Aldan*, 2010 MP 1 ¶ 28 (2010).

§ 6203. Domicile: Criteria for Determination.

Criteria for determining a person's domicile includes but is not limited to the following:

(a) Whether the person maintains a permanent residence or permanent place of abode in a place outside the Commonwealth; or

(b) Whether the person's presence in the Commonwealth results from his own public or private employment or that of a person on whom he is economically dependent; or

(c) Whether he or the person on whom he is economically dependent receives housing or pay differentials for housing or living allowance as a consequence of employment in the Commonwealth; or

(d) Whether the person maintains contacts with a place outside the Commonwealth, such as supporting a spouse or family who reside in the place, maintaining a driver's license issued by the place, holding a postal address at the place, continuing affiliations with the professional, religious or fraternal life in the place or paying taxes in the place; or

(e) Whether the person has expressed an intention not to be domiciled in the Commonwealth; or

(f) Whether the person registered or voted in a place outside the Commonwealth during the preceding year; or

(g) Whether the person who immediately prior to becoming a member of the military service was not domiciled in the Commonwealth and who is in the military service residing in a military reservation or provided housing or a housing allowance; or

(h) Whether the person's presence or residency in the Commonwealth is based on a work order or contract with the Commonwealth Government, its subdivisions or its agencies; or

(i) Whether the person's presence or residency in the Commonwealth is based on a work order or contract in the private sector.

Source: DL 5-19, § 6, modified; repealed and reenacted by PL 12-18, § 2 (6203).

Commission Comment: See N.M.I. Const. art. VII, § 3. The current § 6203 is similar to the former § 6204.

§ 6204. Residency: Determination.

For the purposes of this part, there can be only one residence for an individual, but in determining residency, a person may treat oneself separate from the person's spouse. The following rules shall determine residency for purposes of this part:

(a) The residence of a person is that place in which the person's habitation is fixed, and to which, whenever the person is absent, the person has the intention to return.

(b) A person does not gain residence in any precinct into which the person comes without the present intention of establishing the person's permanent dwelling place within such precinct.

(c) If a person resides with the person's family in one place, and does business in another, the former is the person's place of residence; but any person having a family, who established the person's dwelling place other than with the person's family, with the intention of remaining there, shall be considered a resident where the person has established such dwelling place.

(d) The mere intention to acquire a new residence without physical presence at such place, does not establish residency, neither does mere physical presence without the concurrent present intention to establish such place as the person's residence.

(e) A person does not gain or lose a residence solely by reason of the person's presence or absence while employed in the service of the United States or this Commonwealth, or while a student of an institution of learning.

(f) No member of the armed forces of the United States, the member's spouse or the member's dependent is a resident of this Commonwealth solely by reason of being stationed in the Commonwealth.

(g) A person loses his residence in this Commonwealth if the person registers to vote in another state or area under the United States or other jurisdiction.

Source: PL 12-18, § 2 (6204).

Commission Comment: See N.M.I. Const. art. VII, § 3.

§ 6205. Registration Procedures.

(a) Any person qualified to vote in a general, primary, local or special election may register to vote not less than sixty days before the day of the election.

(b) When registering to vote, the person shall sign an affidavit of registration on a form prepared and furnished by the Commission stating that he meets the qualifications established by the Constitution and by this part for voting in the elections in the Commonwealth.

(1) Except as provided in [1 CMC § 6214](#), no person may register to vote or vote in an election district other than that in which he is a resident. A person has a residence in, or is a resident of, the election district where that person is factually living and has an abode.

(2) No person may vote in any election or be listed in any general register who fails to register according to the requirements of this part.

(3) Persons who are domiciled in the Commonwealth as provided in [1 CMC §§ 6202-6204](#), but who are temporarily out of the Commonwealth for any reason such as business, employment, service in the Armed Forces, or Merchant Marines of the United States, education, training, or medical treatment are considered residents for purposes of this part.

(c) Any person desiring to register to vote in an election district may register with a registration clerk or other person authorized by the Commission or, if a person registers by mail, provide a picture identification form as part of the

election registration packet. The Commission shall authorize one or more registration clerks for Rota and for Tinian and Aguiguan, which may be the Clerk of Court on the respective islands or other persons, and who shall be available to register voters at registrant shall be examined under oath as to his or her qualification and it may be attested to in the form of a mark. The affidavit shall contain the following information:

- (1) Full legal name;
- (2) Last four digits of the individual's social security number;
- (3) Date and place of birth;
- (4) Residence, including mailing address;
- (5) That the residence stated in the affidavit is not simply because of the person's presence in the Commonwealth but that the residence was acquired with the intent to make the Northern Mariana Islands the person's legal residence with all the accompanying obligations therein;
- (6) That the person is a citizen of the United States;
- (7) Any other information as may be required by the Commission;
- (8) That the person meets the requirements of the Commonwealth Constitution and this part.

(d) If a registration clerk administering an oath or the Election Commission staff upon reviewing the application has any question regarding the propriety of an affidavit of registration, the clerk or staff member shall forward the affidavit to the Commission for final decision as to its propriety. In case of a questionable affidavit, residency or any question regarding the qualifications of the voter, the Commission shall conduct a formal or informal hearing to determine the correct facts. The registrant has the right to present evidence to the board regarding his or her qualifications to vote and the registrant's proper election district.

(e) Any voter may change election districts by re-registering in the general, primary, or special election register in the manner prescribed by this section. The Commission shall cancel the existing registration and re-register the voter in the new election district. No registration may be allowed due to a change of residency within sixty days before an election. No change in residency during the forty days before an election shall affect the eligibility of the voter to vote in the precinct where registered.

(f) Notwithstanding any other registration requirements provided for in this part, a registered voter need not register again unless it is necessary due to a change of identification or residency or unless the voter has been removed from the register pursuant to [1 CMC § 6206](#) of this part or disqualifications enumerated by this part have intervened. If voting records have been destroyed or lost, the Commission nevertheless may require re-registration of voters.

(g) Registration of voters shall continue indefinitely, except during the sixty days prior to an election day.

Source: DL 5-19, § 7, modified; repealed and reenacted by PL 12-18, § 2 (6205), modified; amended by PL 17-11 § 3 (Aug. 12, 2010), modified.

Commission Comment: The Commission changed references to agree with codified section numbers pursuant to [1 CMC § 3806\(c\)](#). Public Law 17-11 was

enacted by override on August 12, 2010. PL 17-11 included severability and savings clause provisions and the following:

Section 1. Findings and Purposes. The Legislature finds that Senate Legislative Initiative 16-11 was passed, moving the local elections to even numbered years so that they would be aligned with federal elections. Accordingly, during each local election, the voters will not only vote on local issues but also for the Federal Non-Voting Delegate. Federal elections have their own set of requirements that must be followed by both the government and all candidates. Consequently, in order to simplify the process and not have two different sets of rules for each election, the Legislature finds it necessary to amend election statutes that differ from federal election law.

Furthermore, the Legislature finds that by amending the local election statutes to conform to federal requirements, issues that arose during the 2009 General Election will no longer occur. By creating a “Voter Challenge” process, the Court will no longer have to question whether a voter is telling the truth about who they voted for under oath. Instead, Commonwealth Election Commission, an agency that specializes in elections will be able to handle this process prior to an individual voting. This will save the Commonwealth both time and money, by ensuring that lengthy court processes are unnecessary. The Legislature notes that, as of late March 2010, the contest for Mayor of the Northern Islands was still unsettled, and the various challenges arising out of the First Senatorial District have yet to become final.

Moreover, the Legislature finds that these amendments not only comply with federal requirements, but also empower the Commonwealth Election Commission to continue conducting elections in a fair and democratic manner.

The Legislature finds and declares that these amendments are necessary, and are a proper use of the legislative authority granted by section 1 of Article II of the Commonwealth Constitution.

...

Section 27. Rules and Regulations. The Commonwealth Election Commission shall promulgate rules and regulations to carryout the provisions of this Act.

Public Law 17-16 (effective Sept. 24, 2010) amended PL 17-11. PL 17-16 included severability and savings clause provisions and the following:

Section 1. Findings and Purposes. The Legislature finds that there is a need to amend the new early voting law set forth in Public Law 17-11 to address some issues raised including voter intimidation, fraud, and increased cost of elections. One of the amendments includes extending the 300 foot radius prohibition of campaign activity to early voting polling places. Another amendment is to set a list of criteria for registered voters to use when requesting to vote early at any election. The last amendment involves extending the early voting time period for the Northern Islands to give the Commonwealth Election Commission (CEC) time to coordi-

nate transportation to the Northern Islands with other government agencies at little or no cost.

The Legislature finds that the early voting process will not cost more money because the CEC will utilize its staff and offices to conduct the early voting except that the polling places on Tinian and Rota will be at the Department of Public Safety where all the election ballots will be stored and secured during the early voting period. Accordingly, the purpose of this legislation is to amend Public Law 17-11 to address early voting concerns.

§ 6206. Removal of Names from Register; When; Re-registration.

(a) The Commission shall remove the name of a registered voter from the register in the following cases:

(1) At the written request of the person registered.

(2) When the insanity of the person registered is legally established.

(3) Upon the receipt of certification from the Court that the person registered is serving a sentence for a felony. Within fifty days of each general election the court shall transmit to the Commission a list of all persons convicted of a felony during the preceding two year period. The Commission may request of the court, at any time, the identity of any person who has been convicted of a felony.

(4) Upon submission of a death certificate of the person registered. Not later than the fifteenth day of each month the Secretary of Public Health shall furnish the Commission an abstract of the register of deaths showing, for all decedents eighteen years of age or over, as follows: the name; sex; age; place of residence; month, day and year of birth and death; and certificate of death number.

(5) Upon finding, after notice and opportunity to be heard, that the person registered in an election or senatorial district or municipality where that person is not a resident.

(6) If the person is confined to a mental institution.

(7) If the person did not vote in the preceding two general elections, provided however, that failure to vote in a general election that gives rise to a run-off election shall not preclude the person from participating in a run-off election related to that same general election; A person who votes in a run-off election shall remain a registered voter unless otherwise disqualified under [1 CMC §§ 6201 to 6214](#).

(8) If the person registered to vote in another jurisdiction.

(b) Beginning six months prior to an election, the Commission shall register electors at such time and places within the Commonwealth as the Commission shall deem advisable and convenient until fifty days prior to an election and the Commission may deputize volunteers as registration clerks for such purposes. No person holding an elective office or who is a candidate for elective office shall be a deputized volunteer.

Source: Repealed and reenacted by PL 12-18, § 2 (6206), modified; subsection (a)(7) amended by PL 16-43, § 2(d); subsection (a)(7) amended by PL 17-11 § 4 (Aug. 12, 2010), modified.

Commission Comment: The Commission, pursuant to [1 CMC § 3806\(g\)](#), corrected a manifest error by changing a semi-colon to a period at the end of the first sentence in subsection (a)(7). Public Law 16-43 was enacted on July 24, 2009. PL 16-43 contained severability and savings clause provisions and the following:

Section 1. Findings and Purpose. The Legislature finds that House Legislative Initiative 15-16, SD1 was placed before the people for ratification during the 2007 general election. This initiative proposed to amend Article III, Section 4 of the Constitution of the Northern Mariana Islands to require a runoff election for governor and lieutenant governor if no candidate receives a majority of the votes cast and counted for that office. Approximately 73% of total votes cast during the 2007 general election were in support of this initiative. As a result, a runoff election for governor and lieutenant governor is required if no candidate receives a majority of the votes cast and counted for that office. Additionally, runoff election procedures shall be established by law. The Legislature therefore finds it necessary to establish runoff election procedures as mandated by the ratification of House Legislative Initiative 15-16, SD 1.

The Legislature further finds that current election statutes provide a period of no later than fourteen days after the election date for absentee ballots to arrive on Saipan and be considered valid. The Commonwealth Election Commission shall then tabulate the absentee ballots and subsequently certify the election results. If no candidate receives a majority of the votes cast and counted for the office of governor and lieutenant governor, then a runoff election shall be held on the fourteenth day thereafter. An additional fourteen days would also be allotted for the arrival of absentee ballots for the runoff election. These additional days drastically reduce the transitional period provided for the governor-elect and lieutenant governor-elect to assume office. The Legislature therefore finds it necessary to mandate the counting of absentee ballots received on or prior to election day to allow for more time for the transitional period of the governor-elect and lieutenant governor-elect.

§ 6207. Transfers, Name Changes; Initiated by Executive Director.

(a) The executive director shall use all reliable and pertinent information to keep the general register up-to-date. The executive director may request information form, but is not limited to, the following sources:

- (1) The Office of the Governor for marriages;
- (2) The Superior Court of the Northern Mariana Islands for any changes of name, divorces, separations, deaths, or other changes affecting voter status;
- (3) The Department of Public Health for death or other changes affecting voter status;
- (4) The Commonwealth Utilities Corporation concerning commencement or changes of services;
- (5) The Department of Lands and Natural Resources concerning land deeds and homesteading permits and issuance;

(6) Residential home, apartment and condominium owners as to changes of occupancy.

In requesting the information the executive director shall give reasonable notice and time for furnishing the information.

(b) If the executive director has evidence indicating that a voter should be transferred, or the registration otherwise changed, the executive director shall notify the person by first-class mail of the intent to transfer or change registration. The notification shall include:

(1) Any evidence that the executive director may have indicating why a transfer or change should be made;

(2) The residence and district of the voter according to current registration lists;

(3) Any alleged new address and district;

(4) A reply form which shall contain a space for the voter's agreement or objection to the transfer or change, the reasons for the objection and space for voter's signature; and

(5) Notice that unless the completed form is returned not later than 4:30 p.m. on the fifteenth day after mailing, the transfer or change shall be processed.

(c) A voter may contest the transfer or change up to forty days before election day by presenting evidence that the voter actually resides at the old address or that the transfer or change was otherwise erroneous or inappropriate, which, if found valid by the executive director or the Commission, shall entitle the voter to be returned to the old voting list or previous registration.

Source: Repealed and reenacted by PL 12-18, § 2 (6207), modified; subsection (c) amended by PL 17-11 § 5 (Aug. 12, 2010).

§ 6208. Voting Procedures.

(a) The Commission shall distribute to each polling place a list of the eligible voters for that polling place. Not less than 15 days before the day of election, a copy of the list shall be posted at the office of the Commission and Mayors for examination by the public. Only those voters whose names appear on the list may vote at that polling place. Any name which does not appear on the list due to an error may be inserted by the Commission any time prior to the closing of the polls.

(b) All elections held in accordance with this part shall be held by official ballot. The Commission shall print copies of each official ballot for each polling place. The Commission shall also print a specimen ballot to be posted conspicuously near the entrance to each polling place where it may be easily seen by the voters prior to voting and in the office of the Commission at least seven days before the election for viewing by the general public. Further samples may be made available to the public.

(c) A ballot shall contain the names of candidates in an order identifying party affiliation or nonpartisanship for Attorney General, Board of Education, and municipal council, as established by the Commission, and the office to be sought.

(d) If a voter indicates the choice of more candidates than there are offices to be filled or if for any reason it is impossible to determine the voter's choice for any office, the ballot shall not be counted for that office or offices. The rest of the ballot, if properly marked, shall be counted.

(e) The ballot may include questions concerning proposed Commonwealth constitutional amendments or proposed initiative or referendum issues. When such matters are to be printed on the ballot, the question shall be phrased as simply and as clearly as possible to address the issue and require a yes or no response by the voter, yes to be in favor of the question and no to be against.

(f) The Commission shall establish a method of marking and identifying each person who has completed voting.

(g) Each voter shall be required to show photo identification at the poll in order to receive a ballot; if the voter does not have or refuses to produce photo identification, the voter shall fill out an affidavit that includes their name, address and their signature swearing under penalty of perjury as to the truth of the affidavit.

(h) If an individual declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in the election, but the name of the individual does not appear on the official list of eligible voters for the polling place, such individual shall be permitted to cast a provisional ballot as follows:

(1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election.

(2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of an affidavit under penalty of perjury by the individual before an election official at the polling place stating that the individual is:

(i) a registered voter in the jurisdiction in which the individual desires to vote; and

(ii) eligible to vote in that election.

(3) An election official at the polling place shall seal the ballot cast by the individual and the voter information the ballot cast by the individual and the voter information and transmit it to the Commission for prompt verification/disposition.

(4) The Commission shall review all provisional ballots cast information to determine the validity of such ballot and render a decision no later than five calendar days after the date of election.

(5) If the Commission determines that the individual is eligible to vote, the individual's provisional ballot shall be counted in that election.

(6) At the time that an individual casts a provisional ballot, the election official shall give the individual written information that states that any individual who casts a provisional ballot will be notified whether their ballot was counted and if their ballot was not counted, the reason that the ballot was not counted.

Source: DL 5-19, § 7, modified; repealed and reenacted by PL 12-18, § 2 (6208); amended by PL 17-11 § 6 (Aug. 12, 2010); subsection (c) amended by PL 18-46 § 3(b) (Apr. 23, 2014), modified.

Commission Comment: The Commission removed figures that repeated words pursuant to [1 CMC § 3806\(e\)](#). The Commission inserted a comma after the word “Education” in subsection (c) pursuant to [1 CMC § 3806\(g\)](#).

§ 6209. Absentee Voting.

(a) Subject to the procedures set forth in this chapter, any registered voter at any election may request and cast an absentee ballot with the Commission. The Commission shall compile and keep immediately current a list of persons requesting an absentee ballot pursuant to [1 CMC §§ 6210](#) and [6211](#), including the date such request was made; shall make and keep immediately current a list of persons to whom an absentee ballot was personally delivered or mailed, including the dates the ballots were delivered or mailed; and shall make each list immediately available for public inspection:

(1) At one government building in each senatorial district which maintains regular business hours; and

(2) On a website accessible without requiring user registration or the use of a password.

(b) For the purposes of this section, “keep immediately current” and “make each list immediately available” mean the information is updated and published to the public as soon as practical after the information is received, and in no case later than 48 hours after the receipt of the information.

(c) If on the day of the election, the registered absentee voter is within the Commonwealth and has not received his or her ballot, he or she may vote at a polling place designated by the Commonwealth Election Commission where his or her ballot will be treated as an absentee ballot, until it can be confirmed that another ballot was not received for him or her.

Source: DL 5-19, § 8, modified; repealed and reenacted by PL 12-18, § 2 (6209); amended by PL 16-38, § 7; (c) added by PL 17-11 § 7 (Aug. 12, 2010), modified.

Commission Comment: The Commission modified this section pursuant to [1 CMC § 3806\(f\)](#). Public Law 16-38 was enacted on April 29, 2009. PL 16-38 contained severability and savings clause provisions and the following:

Section 1. Findings and Purpose. The Legislature finds that the Northern Mariana Islands Election Law, as amended, requires further amendments to establish a clear policy governing elections in the Northern Mariana Islands and to set forth procedures that would allow the Commonwealth Election Commission to more effectively and efficiently administer absentee voting, and other matters.

The Legislature finds that, currently the election law of the CNMI requires voters to proffer an excuse to vote by absentee ballot. This requirement is outdated and an unnecessary barrier to the exercise of the franchise. Thirty one (31) states allow no-excuse pre-Election Day in-person voting – either early voting on a voting machine or in-person ab-

sentee voting. Twenty nine (29) states allow no-excuse absentee voting by mail. The Legislature finds that the Commonwealth should join this majority of jurisdictions who have removed impediments such that more people are likely to exercise their rights to vote.

The Legislature further finds that other amendments proposed in this Act serve to establish uniformity in the processing of absentee voting and to further clarify ambiguities in the Northern Mariana Islands Election Law. For example, voters have noted disparate treatment when they wish to obtain absentee ballots because they will be within the CNMI but outside the senatorial district in which they are to vote on election day. The Legislature finds that, to the greatest extent possible, voters exercising the franchise by absentee ballot should be treated similarly. Absentee ballots in the possession of the Commission on election day should be counted on election day; so doing will remove a great deal of uncertainty regarding the outcome of elections and allows for a speedy transition of powers between outgoing and incoming officeholders. This Act amends current election law to the benefit of the voters wishing to participate in the political process. This Act is intended to promote fair, honest, and transparent elections in the Commonwealth, and is therefore necessary and a proper use of the legislative power granted by Section 1 of Article II of the Commonwealth Constitution.

§ 6210. Absentee Voting: Sick or Disabled Voters.

If a registered voter at any election is confined to a home or hospital due to illness or physical disability and unable to go to the polls, that voter nevertheless may vote in accordance with this part and the rules and regulations promulgated by the Commission. The person or member of his or her immediate family or guardian may make a written request, on a form furnished by the Commission, for an absentee ballot by 12:00 o'clock noon on election day.

Source: DL 5-19, § 8, modified; repealed and reenacted by PL 12-18, § 2 (6210).

§ 6211. Absentee Voting: Absence from the District in Which Voter is Registered.

(a) Any registered voter of the Commonwealth may, as provided in this part and subject to the conditions of this section, may vote at any election by absentee ballot if he or she feels it likely he or she will be prevented from personally going to the polls in the senatorial district in which he or she is registered to vote and voting on election day because of:

- (1) The conduct of his or her business;
- (2) The necessity of travel;
- (3) Attendance at an institution of learning;
- (4) Serving in the United States Armed Forces or the Merchant Marine;
- (5) Employment;
- (6) Training;
- (7) Receiving treatment at a medical institution;

(8) Government representation; or

(9) Accompanying a member of the household who is engaged in an activity listed above.

(b) Any registered voter, under the circumstances specified in subsection (a)(1-9), inclusive, may make an application to the Commission for an official ballot to be voted at such election. Such application if made by mail or by facsimile or by other electronic means approved by the Commission shall be made not more than seventy-five days nor less than twenty-five days before the election, or if the application is made in person, not later than during regular office hours of the day prior to the election. Any such application shall be made in writing on a form furnished by the Commission and shall indicate the applicant's name, last four digits of their social security number, the applicant's election district, the reason for requesting an absentee ballot, any other information required by the Commission, and the address to which the applicant wishes the ballot forwarded if the applicant is not picking up the ballot in person.

(c) Beginning not less than one week before the day of election, the Commission shall establish a mailbox in each senatorial district at which a voter eligible to cast an absentee ballot may, cast and deliver their ballot into the custody of the Commission to be processed and counted in the Third Senatorial District as provided in this chapter.

Source: DL 5-19, § 8, modified; repealed and reenacted by PL 12-18, § 2 (6211), modified; (a) and (c) amended by PL 16-38, § 2-3; (b) and (c) amended by PL 16-43, § 2(a); (b) and (c) amended by PL 17-11 § 8 (Aug. 12, 2010), modified.

Commission Comment: The Commission corrected the reference to “board” with “Commission” in subsection (c), as PL 12-18 replaced the Board of Elections with the Election Commission.

The Commission modified this section pursuant to [1 CMC § 3806\(f\) and \(e\)](#).

§ 6212. Absentee Voting: Marking and Mailing Ballots.

(a) The Commission shall provide to any registered voter entitled to vote by absentee ballot and who applied for one, an official ballot, a ballot envelope, an affidavit prescribed by the Commission, and a reply envelope. The absentee voter shall mark the ballot in the usual manner provided by law and in a manner such that no other person can know how the ballot is marked. The absentee voter shall then deposit the ballot in the ballot envelope and securely seal it. The absentee voter shall then complete and execute the affidavit. The ballot envelope and the affidavit shall then be enclosed and sealed in the covering reply envelope and mailed via standard U.S. First Class Mail only or sent by commercial courier service to the commission at the expense of the voter. Such ballots and affidavits will not be counted by the Commission unless mailed. For the purpose of this part, the word “mailed” includes ballots and affidavits sent through the postal or courier services.

(b) The Executive Director of the Commission shall coordinate with the Public Auditor on the proper procedure of mailing absentee ballots to voters to ensure that the absentee ballots are unmarked, sealed and mailed accordingly.

Source: DL 5-19, § 8, modified; repealed and reenacted by PL12-18, § 2 (6212); (b) added by PL 17-11 § 25 (Aug. 12, 2010), modified; subsection (a) amended by PL 18-46 § 3(c) (Apr. 23, 2014), modified.

Commission Comment: The Commission modified this section pursuant to [1 CMC § 3806\(f\)](#). The Commission inserted quotation marks around the word “mailed” in subsection (a) pursuant to [1 CMC § 3806\(g\)](#).

§ 6213. Absentee Voting: Counting Ballots.

(a) To be eligible to be counted, an absentee ballot shall be received by the Commission not later than the date of election; provided that in the case of a runoff election an absentee ballot shall be postmarked not later than the day of the runoff election and shall be received by the Commission no later than fourteen days after the date of the runoff election. If the Commission is using a post office box for the receipt of absentee ballots, it shall remove all absentee ballots contained in the post office box as follows for such ballots to be deemed to have been received within the deadline:

(1) No less than two persons, one of whom shall be designated by the Commission Chairperson and the other of whom shall be designated by the Executive Director, shall go to the designated post office in each senatorial district to collect absentee ballots on the day they are to be counted:

(i) once in the morning prior to 11:00 a.m. and once prior to the closure of the post office on the day of the election; and

(ii) prior to the closure of the post office on the fourteenth day after a runoff election.

(2) The reply envelopes shall not be opened but shall be postmarked as provided in subsection (b) and shall be deposited in a locked ballot box until processed by the Commission pursuant to subsection (c) through (i).

(b) The date and time of receipt shall be noted on each return envelope.

(c) The Commission shall compare this signature of the voter on the application for absentee ballot with that on the affidavit and the registration. If the signatures appear to be by the same person, if the affidavit is properly completed, and if the envelope is sealed and it does not appear to have been tampered with, the notation OK shall be placed on the return envelope and shall be initialed by no less than five members of the Commission.

(d) An absentee ballot may be rejected if:

(1) After comparing the signature of the voter on the application for absentee ballot with that on the affidavit and registration, it appears the signatures were not made by the same person; or

(2) The affidavit is not properly completed; or

(3) The return envelope is not sealed; or

(4) The seal appears to have been tampered with; or

(5) The Commission has already received an absentee ballot from that person; or

(6) The absentee voter has died or has otherwise become ineligible to vote on the election day; or

(7) The ballot has been received after the deadline; or

(8) The voter has not complied with [1 CMC § 6212](#) of this part.

(e) If any of the conditions in subsection (d) of this section apply, then the word rejected shall be printed on the return envelope along with a short statement of the reason for rejection. Five signatures of the Commission members constitute a verification of the discrepancy noted as the cause for rejection. The rejected ballot may not be delivered to the accounting and tabulation committee, but shall be maintained in a secure place by the Commission for at least six months after the election.

(f) The application for absentee ballot shall be attached to the corresponding ballot envelope and the envelope shall not be opened.

(g) A duplicate list shall be prepared in each election district of the names and addresses of the absentee voters as shown on return envelopes. The Commission shall maintain one copy of the list for at least one year from the election date.

(h) The returned envelopes marked “OK,” together with the application attached shall be delivered by the Commission to the accounting and tabulation committee the day of the general election, or in the case of a runoff election absentee ballots shall be postmarked no later than the date of the run off election and be received by the Commission no later than fourteen days following the runoff election date, to be tabulated by the accounting and tabulation committee.

(i) Absentee ballots in the possession of the Commission on a runoff election day shall be processed, counted and tabulated on election day, and reported pursuant to [1 CMC § 6524](#). Other runoff election absentee ballots shall be postmarked, received and counted as provided in this section.

Source: PL 12-18, § 2 (6213), modified; subsections (a) and (h) amended by PL 12-70, §§ 2(a) and (b), respectively; (a)(2) amended and (i) added by PL 16-38, § 5-6; subsections (a), (h) and (i) amended by PL 16-43, § 2(b),(c) and (g), respectively; amended by PL 17-11 § 9 (Aug. 12, 2010), modified; subsections (a)(1)(i) and (a)(1)(ii) amended by PL 18-46 § 3(d) (Apr. 23, 2014); temporarily suspended by PL 19-70 § 2–3 (Oct. 28, 2016).

Commission Comment: The Commission modified this section pursuant to [1 CMC § 3806 \(c\), \(f\) and \(e\)](#). Section 6213 is similar to the former § 6211 (source: DL 5-19, § 8, modified). PL 12-70, which took effect November 2, 2001, contained findings and severability provisions. According to PL 12-70:

Section 1. Findings. As a result of the series of transmissions of the potentially deadly bacteria anthrax through the U. S. mail in the aftermath of the unprecedented attacks of September 11, 2001 on the United States, the United States Postal Service has undertaken heightened precautions to ensure the safety of its employees and the public. The Legislature finds that the delivery of mail to and from the Northern Mariana Islands may be delayed as a result of these precautionary measures. While extra precaution in the handling of United States Postal Service mail is necessary to ensure safety, the Legislature anticipates that these precautionary measures will result in delay in the forwarding and receipt of absentee ballots for the November 3, 2001 regular general election in the Northern Mariana Islands.

This legislation seeks to address that situation by enlarging the time within which the Election Commission must receive and tabulate ballots for registered voters who vote by absentee ballot from seven (7) to fourteen (14) days. This enlargement of time is intended to safeguard the election process.

On October 28, 2016, 1 CMC § 6213 was suspended by PL 19-70 § 2 which provided for procedures and deadlines for the November 8, 2016 election. Pursuant to PL 19-70 § 3, the provisions of PL 19-70 § 2 automatically expire on November 23, 2016.

ELECTIONS

Contests

– Generally

Pursuant to 1 CMC § 6213(a), the Commonwealth Election Commission should retrieve absentee ballots on election day. These ballots clearly were mailed by the deadline and should be counted. Absentee ballots retrieved after election day, and up until the fourteenth day after the election must display proof of their mailing by the deadline in order to be counted. 1 CMC § 6213(a). *Atalig v. Inos*, 2006 MP 1 ¶ 32, 7 N.M.I. 236, 240 (2006).

§ 6214. Voting in Another Polling Place [Repealed].

Source: PL 12-18, § 2 (6214), modified; subsection (d) was added by PL 16-38, § 4; repealed by PL 17-11 § 10 (Aug. 12, 2010).

Commission Comment: Section 6214 is similar to the former § 6212 (source: DL 5-19, § 9, amended by PL 3-82, § 1).

§ 6215. Challenge by Voters; Grounds; Procedure.

(a) *Challenge prior to election day.* Any registered voter may challenge the right of a person to be or to remain registered as a voter in any district. The challenge shall be made in writing, setting forth the grounds upon which it is based, and be signed by the person making the challenge under penalty of perjury. The challenge shall be delivered to the Commonwealth Election Commission Executive Director who shall forthwith serve notice thereof on the person challenged. The Executive Director shall, as soon as possible, investigate and rule on the challenge. If the Executive Director does not rule prior to election day, the challenged voter will be given a provisional ballot on election day or the voter's ballot will be set aside if the voter voted during the early voting period. After the Executive Director has ruled, the decision can be appealed following subsections (c)-(e) of this section.

(b) *Challenge on election day.* Any voter rightfully in the polling place may challenge the right to vote of any person who comes to the election officials for voting purposes. The challenge shall be on the grounds that the voter is not the person the voter alleges to be, that the voter is not entitled to vote in that election district or that the voter does not meet the CNMI residency and domiciliary

requirements. No other challenge shall be allowed. Any person thus challenged shall first be given the opportunity to make the relevant correction. The challenge shall be considered and decided immediately by a Commonwealth Election Commission staff member and the ruling shall be announced.

(c) If neither the challenger nor the challenged voter shall immediately appeal the ruling of the Commonwealth Election Commission, then the challenged voter shall either be allowed to vote or be prevented from voting in accordance with the ruling. If an appeal is immediately taken to the Commonwealth Election Commission, the challenged voter shall be allowed to vote; provided that the ballot is placed in a sealed envelope to be later counted or rejected in accordance with the ruling on appeal.

(d) Appeals of the staff member's ruling must be made immediately to the Commonwealth Election Commission. The notice of appeal must be in writing but need not take any particular form, though forms may be provided by the Commonwealth Election Commission. Any notice of appeal not actually received by the Election Commission staff member prior to either the challenged voter being allowed to vote or the closing of the polls, whichever first occurs will be considered untimely.

(e) This appeal will be heard by a panel of three consisting of the Chair or a commissioner of the Commonwealth Election Commission designated by the Chair from an island other than the challenged voter's island, the Public Auditor, and another commissioner of the Commonwealth Election Commission designated by the Chair from an island other than the challenged voter's island. This appeal must be heard within five calendar days of the election, at which point both the appellant and appellee may provide evidence to prove their case. The appellant and appellee may be represented by counsel. During all portions of the appeal to include any discussions the panel may have about each case the panel will not enter into executive session. The panel will issue a decision within two calendar days. A party to the appeal may appeal the panel's ruling within five calendar days to the Commonwealth Superior Court which will review the panel's legal conclusions de novo but will overturn the Commission's factual determinations only upon a showing of clear error.

(f) *Voter Eligibility Challenges: Costs.* If, for any reason, the proceedings terminate in such a fashion that the challenged voter was deemed eligible to vote, judgment shall be rendered against the challenger, for costs and reasonable attorney's fees, in favor of the challenged voter. If, for any reason, the proceedings terminate in such a fashion that the challenged voter was deemed ineligible, judgment shall be rendered against the challenged voter, for costs and reasonable attorney's fees, in favor of the challenger. If the decision of the Election Commission is not appealed to the Superior Court, the prevailing party shall apply to the Superior Court for an order and entry of judgment rendered against the losing party, for costs and reasonable attorney's fees, in favor of the prevailing party.

Source: PL 17-11 § 23 (Aug. 12, 2010), modified; subsection (e) amended by PL 18-46 § 3(e) (Apr. 23, 2014), modified.

Commission Comment: The Commission changed capitalization for consistency and changed "attorneys fees" to "attorney's fees" in the first two sen-

tences of subsection (f) pursuant to [1 CMC § 3806\(f\) and \(g\)](#). The Commission corrected the capitalization of the words “appeal” and “commissioner” in subsection (e) pursuant to [1 CMC § 3806\(f\)](#).

§ 6216. Federal Write-in Absentee Ballot / Federal Postcard Application.

In lieu of using an absentee registration form, any overseas uniformed services voter, or person who is a spouse or dependent of such person, and any person who temporarily resides outside the territorial limits of the United States and its territories, may apply for registration and enrollment on the Federal postcard application form provided pursuant to the Uniformed and Overseas Citizens Absentee Voting Act (100 Stat. 924; [42 U.S.C. §§ 1973 F.F. et seq.](#), as amended) or any other applicable law. The failure of an applicant to take the elector’s oath on such federal postcard application will not invalidate such application.

Source: PL 17-11 § 24 (Aug. 12, 2010), modified.

Commission Comment: The Commission changed capitalization pursuant to [1 CMC § 3806\(f\)](#).

§ 6217. Early Voting: Criteria for Early Voting.

(a) Any registered voter of the Commonwealth may vote early at any election if he/she will be prevented from personally going to the polls and voting on election day because of:

- (1) The conduct of his/her business;
- (2) The necessity of travel;
- (3) Serving in the United States Armed Forces or the Merchant Marine;
- (4) Receiving treatment at a medical institution;
- (5) Government representation; or
- (6) Accompanying a member of the household who is engaged in an activity listed above.

Source: PL 17-16 § 3 (Sept. 24, 2010).

§ 6218. Early Voting: Photo Identification.

(a) Each voter shall be required to show photo identification at the poll in order to receive a ballot; if the voter does not have or refuses to produce photo identification, the voter shall fill out an affidavit that includes their name, address and their signature swearing under penalty of perjury as to the truth of the affidavit.

(b) Each voter shall be required to bring a copy of their photo identification to include in their early voting packet; if the voter does not have or refuses to produce photo identification, the voter shall fill out an affidavit that includes their name, address and their signature swearing under penalty of perjury as to the truth of the affidavit.

Source: PL 17-16 § 3 (Sept. 24, 2010).

§ 6219. Early Voting: Ballot Box.

(a) During the period of early voting, the keys to the ballot box used at each early voting polling place will be kept at the Office of the Public Auditor in Saipan.

(b) During the period of early voting, DPS must be stationed at the polling place at all hours that the polling place is opened.

Source: PL 17-16 § 3 (Sept. 24, 2010).

§ 6220. Early Voting: Issuance of Ballots; Voting Booths.

(a) If a request is made to vote early by a registered voter in person, the Commission shall issue a ballot for early voting to the voter. The ballot must be voted on the premises of the Commission, except as otherwise provided in this chapter, and returned to the Commission. Early voting is subject to a challenge by a voter.

(b) On the dates for early voting, the Commission shall provide voting booths, with suitable equipment for voting, on the premises of the Commission and any other designated early voting polling place for use by registered voters who are issued ballots for early voting.

(c) The Commission must maintain a list for each election of the voters to whom it has issued early ballots. The list must be maintained for each precinct of the Commonwealth. Before the opening of the polls on election day, the Commission shall deliver to the election official in each precinct the list of registered voters who have voted by early ballot.

Source: PL 17-11 § 26 (Aug. 12, 2010); (b) amended by PL 17-16 § 4 (Sept. 24, 2010).

Commission Comment: The Commission inserted proper code references and changed capitalization pursuant to [1 CMC § 3806\(c\) and \(f\)](#).

§ 6221. Early Voting: Permanent Polling Places for Early Voting.

(a) The Commission may establish permanent polling places for early voting by personal appearance at locations throughout the Commonwealth. Any person entitled to vote early by personal appearance may do so at any polling place established for early voting.

(b) If the early voting polling place does not have the correct ballot form for a person seeking to vote early, the election official conducting early voting at that polling place shall inform the person of that fact, give the person the appropriate telephone number of the Commission in order to locate an early voting polling place with the correct ballot form for use in that person's assigned precinct, and instruct the person to go to the proper early voting polling place to vote early.

Source: PL 17-11 § 26 (Aug. 12, 2010).

§ 6222. Early Voting: Period for Early Voting; Hours.

(a) The period for early voting by personal appearance begins the 7th day preceding an election and extends through the last day before election day; provided that the period for early voting for the Northern Islands begins on the

46th day preceding the election and extends through the last day before the election at 4:00 p.m.

(b) A permanent polling place for early voting must remain open during the hours of 8:30 a.m. to 4:00 p.m. on weekdays and 8:30 a.m. to 4:00 p.m. on Saturdays, Sundays, and holidays; except that the Commission may extend the voting hours as necessary to accommodate emergency early voting.

Source: PL 17-11 § 26 (Aug. 12, 2010); (a) amended by PL 17-16 § 5 (Sept. 24, 2010); subsections (a) and (b) amended by PL 18-46 § 3(f) (Apr. 23, 2014).

§ 6223. Temporary Branch Polling Places.

(a) In addition to permanent polling places for early voting, the Commission may establish temporary branch polling places for early voting.

(b) Voting at a temporary branch polling place may be conducted on any one or more days and during any hours within the period for early voting by personal appearance that are determined by the Commission.

Source: PL 17-11 § 26 (Aug. 12, 2010).

§ 6224. Schedule of Locations and Times for Early Voting.

(a) The Commission shall publish during the week before the period for early voting and at least once each week during the period for early voting in a newspaper of general circulation in the Commonwealth a schedule stating:

(1) the location of each permanent and temporary polling place for early voting and the precincts served by each location; and

(2) the dates and hours that early voting will be conducted at each location.

(b) The election authority shall post a copy of the schedule at any office or other location that is to be used as a polling place for early voting. The schedule must be posted continuously for a period beginning not later than the 5th day before the first day of the period for early voting by personal appearance and ending on the last day of that period.

(c) If the Commission maintains a website, it shall make the schedule available on its website.

(d) No additional polling places for early voting may be established after the schedule is published under this section.

Source: PL 17-11 § 26 (Aug. 12, 2010), modified.

Commission Comment: The Commission changed capitalization pursuant to [1 CMC § 3806\(f\)](#).

CHAPTER 3.

Election to Public Office.

- Articles**
1. Eligibility for Public Office.
 2. Party Nominations: Governor and Lieutenant Governor.
 3. Independent Nominations: Governor and Lieutenant Governor.

4. Nomination of Candidates to Other Offices.
5. Amendments to the NMI Constitution and Referendums.
6. Federal Elections; Delegate to the U.S. House of Representatives.

Article 1. Eligibility for Public Office.

- § 6301. Governor and Lieutenant Governor.
- § 6302. Senators.
- § 6303. Representatives.
- § 6304. Delegate to the United States House of Representatives.
- § 6305. Mayor.
- § 6306. Municipal Council.
- § 6307. Board of Education.
- § 6308. Attorney General.
- § 6309. Person Eligible for Only One Public Office.

§ 6301. Governor and Lieutenant Governor.

A candidate for Governor or Lieutenant Governor shall be qualified to vote in the Commonwealth, at least thirty-five (35) years of age, and a resident and a domiciliary of the Commonwealth for at least ten (10) years immediately preceding the date on which a Governor would take office. No person convicted of a felony in the Commonwealth or in any area under the jurisdiction of the United States may be eligible for these offices unless a full pardon has been granted.

Source: PL 12-18, § 2 (6301).

§ 6302. Senators.

A candidate for senator shall be qualified to vote in the Commonwealth, at least twenty-five (25) years of age, and a resident and a domiciliary of the Commonwealth for at least five (5) years immediately preceding the date on which a senator would take office. No person convicted of a felony in the Commonwealth or in any area under the jurisdiction of the United States may be eligible for this office unless a full pardon has been granted.

Source: PL 12-18, § 2 (6302).

§ 6303. Representatives.

A candidate for the House of Representatives shall be qualified to vote in the Commonwealth, at least twenty-one years of age, a resident and a domiciliary of the Commonwealth for at least three years immediately preceding the date on which a representative would take office. A candidate for the House of Representatives shall be a registered voter and a resident of the election precinct where he or she is a candidate. No person convicted of a felony in the Commonwealth or in any area under the jurisdiction of the United States may be eligible for this office unless a full pardon has been granted.

Source: PL 12-18, § 2 (6303); PL 14-87, § 2(b), modified.

Commission Comment: PL 14-87 was enacted on September 19, 2005, and contained, in addition to an amendment to [1 CMC § 6004](#), findings and intent, applicability, and severability provisions. According to PL 14-87:

Section 1. Findings and Intent. The Legislature finds and declares that the republican form of government functions best, and the people of the Commonwealth are therefore best served, when legislators are popularly elected in spirited contests in which the people are free to choose from the widest range of qualified candidates.

The Legislature finds that the Election Law of the Commonwealth of the Northern Mariana Islands imposes upon candidates for the House of Representatives certain qualifying restrictions which are not imposed on senatorial or mayoral candidates.

The Legislature intends to remove certain qualifying restrictions which are imposed on candidates for the House of Representatives, and to make the new qualifications apply prospectively as well as apply retroactively to all persons who filed to have his or her candidacy for the November 5, 2005 general election certified by the Commonwealth of the Northern Mariana Islands Election Commission. The Legislature finds that this Act is necessary and is a proper use of the Legislative power.

...

Section 3. Applicability. The provisions of this Act shall apply prospectively and further apply retroactively to all persons who filed candidacy nomination petitions for the November 5, 2005 general election. Notwithstanding any other law, rule or regulation to the contrary, the Northern Mariana Islands Election Commission shall have two weeks from the effective date of this Act to reconsider its actions regarding the certification of the candidacies of people to whom this Act applies retroactively.

§ 6304. Delegate to the United States House of Representatives.

A candidate for Delegate to the United States House of Representatives shall be qualified to vote in the Commonwealth, a citizen of the United States, at least twenty-five years of age, and a resident and a domiciliary of the Commonwealth for at least seven years immediately preceding the date on which the resident representative takes office. No person convicted of a felony in the Commonwealth or in any area under jurisdiction of the United States may be eligible for this office unless a full pardon has been granted.

Source: PL 12-18, § 2 (6304); repealed and reserved by PL 16-13 § 3(b); enacted by PL 17-11 § 11 (Aug. 12, 2010), modified.

Commission Comment: The Commission modified this section pursuant to [1 CMC § 3806\(e\)](#). This section was entitled “Resident Representative to the United States” before it was repealed by PL 16-13. See Commission comment to [1 CMC § 6360](#) for more information regarding PL 16-13. PL 17-11 provided the current title of this section. For more information regarding PL 17-11, see comment to [1 CMC § 6205](#).

§ 6305. Mayor.

A candidate for mayor shall be qualified to vote in the Commonwealth and on the island or islands served by the mayor, at least twenty-five (25) years of age, a resident and a domiciliary of the island or islands served by the mayor for at least three years immediately preceding the date on which the mayor takes office, and must reside in the island or islands served by the mayor after each election. No person convicted of a felony in the Commonwealth or in any area under the jurisdiction of the United States may be eligible for these offices unless a full pardon has been granted.

Source: PL 12-18, § 2 (6305).

§ 6306. Municipal Council.

A candidate for Municipal Council shall be qualified to vote in the Commonwealth and on the island or islands served by the Municipal Council, at least twenty-one (21) years of age, and a resident and a domiciliary of the island or islands served by the Council for at least three years immediately preceding the date on which the Municipal Council takes office and must reside in the island or islands served by the Council after each election. No person convicted of a felony in the Commonwealth or in any area under the jurisdiction of the United States may be eligible for this office unless a full pardon has been granted.

Source: PL 12-18, § 2 (6306).

§ 6307. Board of Education.

A candidate for the Board of Education shall be qualified to vote in the Commonwealth, at least twenty-five years of age, and a resident and domiciliary of the Commonwealth for at least five years immediately preceding the date on which a member takes office. No person convicted of a felony in the Commonwealth or in any area under the jurisdiction of the United States may be eligible for this office unless a full pardon has been granted.

Source: PL 12-18, § 2 (6307).

§ 6308. Attorney General.

A candidate for the Attorney General shall be at least 35 years of age, a U.S. citizen, and a resident and domiciliary of the Commonwealth for at least 5 years immediately preceding the date on which the Attorney General takes office. Must be an active member in good standing of the Commonwealth Bar Association for at least 5 years preceding the date the Attorney General takes office and have not been suspended from practice of law in any jurisdiction of the United States for violation of ethics rules governing the practice of attorneys. No person convicted of a felony or a crime of moral turpitude in the Commonwealth or any other area under the jurisdiction of the United States may be eligible for this office.

Source: PL 18-46 § 3(g) (Apr. 23, 2014), modified.

Commission Comment: The Commission corrected the capitalization of the words “citizen” and “Attorney General” pursuant to [1 CMC § 3806\(f\)](#). The

Commission inserted a comma after the word “citizen” pursuant to [1 CMC § 3806\(g\)](#).

§ 6309. Person Eligible for Only One Public Office.

No person shall be eligible for more than one public office to be filled in the same election or different elections held at the same time. The term “election” as used in this section includes a general, local, or special election held on the same date, so as to prohibit a person from running for office in a local election and in a general election or in a special election at the same time.

Source: PL 18-63 § 2 (Sept. 5, 2014), modified.

Commission Comment: The Commission struck the figure “1” from the title and the body of the section pursuant to 1 CMC § 3806(e). The Commission corrected the capitalization of the word “section” pursuant to 1 CMC § 3806(f).

PL 18-63 (Sept. 5, 2014) contained, in addition to savings and severability clauses, the following Findings and Purpose section.

Section 1. Findings and Purpose. The Commonwealth Legislature finds that the current Commonwealth Election Law does not prohibit candidates from running for multiple public offices. However, the Commonwealth Constitution prohibits an elected public official from holding another government employment position. So if a person is elected to two positions and chose one over the other, a special election would be required to fill the position that was turned down. This is because the position that was declined would not automatically go to the runner up. This scenario would create confusion to the voters and increase the cost of special elections. Accordingly, the purpose of this legislation is to prohibit a person from running for more than one public office in any election.

Article 2. Party Nominations: Governor and Lieutenant Governor.

- § 6321. Nominations: Governor and Lieutenant Governor.
- § 6322. Party Nominations: Failure to Comply With Act.
- § 6323. Party Nominations: Duty of Commission.
- § 6324. Party Nominations: Failure of Commission to Act.
- § 6325. Party Nominations: Filing Fee.

§ 6321. Nominations: Governor and Lieutenant Governor.

Any political party may nominate candidates for Governor and Lieutenant Governor by having its chairman and secretary certify to the Commission the names of the party’s team of candidates not more than one-hundred-twenty (120) days and not less than ninety (90) days prior to the election. At the same time, the political party shall file a petition containing the signatures, printed names, residences and mailing addresses of not less than two-hundred (200) registered voters in support of the party’s team of candidates. No person may sign more than one petition for Governor and Lieutenant Governor. Each petition shall be

accompanied by the signature of the person nominated, which shall constitute the nominee's assent to be a candidate.

Source: PL 12-18, § 2 (6321); amended by PL 12-55, § 2 (6321).

Commission Comment: Section 6321 is similar to the former § 6311 (source: DL 5-19, § 10, modified) which was repealed (and reenacted) by PL 12-18, § 2.

PL 12-55, which became effective September 20, 2001, included the following findings:

Section 1. Findings. The Legislature finds administrative necessity to require that candidates for elected offices within the Northern Mariana Islands file their nominating petitions earlier than the 90 days presently required by Public Law 12-18.

§ 6322. Party Nominations: Failure to Comply With Act.

The Commission may refuse to accept for filing any petition that, on its face, fails to comply with the requirements of this part.

Source: PL 12-18, § 2 (6322).

Commission Comment: Section 6322 is similar to the former § 6312 (source: DL 5-19, § 10) which was repealed (and reenacted) by PL 12-18, § 2.

§ 6323. Party Nominations: Duty of Commission.

Upon receipt of the certificate of nomination and petition by any political party, the Commission shall:

(a) Determine whether all the requirements of this part have been complied with and that the signatures on the petition are the genuine signatures of the registered voters; and, if so,

(b) Certify the names of the party's nominees as candidates and cause to have the names of the candidates appear on the general election ballot.

Source: PL 12-18, § 2 (6323).

Commission Comment: Section 6323 is similar to the former § 6313 (source: DL 5-19, § 10, modified) which was repealed (and reenacted) by PL 12-18, § 2.

§ 6324. Party Nominations: Failure of Commission to Act.

If the Commission does not affirmatively take action to deny certification to a political party's candidates within forty-five (45) days, prior to the election day, the party's nominees shall be deemed certified for the general election ballot.

Source: PL 12-18, § 2 (6324).

Commission Comment: Section 6324 is similar to the former § 6314 (source: DL 5-19, § 10) which was repealed (and reenacted) by PL 12-18, § 2.

§ 6325. Party Nominations: Filing Fee.

Each petition for a political party candidate for Governor or Lieutenant Governor shall be accompanied by payment to the Commission of a five-hundred dollar (\$500.00) filing fee.

Source: PL 12-18, § 2 (6325).

Commission Comment: Section 6325 is similar to the former § 6315 (source: DL 5-19, § 10, modified) which was repealed (and reenacted) by PL 12-18, § 2.

Article 3. Independent Nominations: Governor and Lieutenant Governor.

§ 6331. Independent Nominations: Governor and Lieutenant Governor.

§ 6332. Independent Nominations: Failure to Comply With Act.

§ 6333. Independent Nominations: Failure of Commission to Act.

§ 6334. Independent Nominations: Filing Fee.

§ 6331. Independent Nominations: Governor and Lieutenant Governor.

(a) The nomination of independent candidates is made by petition designating the persons seeking the nomination for Governor and Lieutenant Governor to be an independent ticket, and containing the signatures, printed names, residences, and mailing address of two-hundred (200) registered voters in the Commonwealth. Each petition shall be accompanied by the signature of the persons nominated, which shall constitute the nominees' assent to be candidates.

(b) All independent nomination petitions for Governor and Lieutenant Governor and the candidates' acceptances shall be filed with the Commission not more than one-hundred-twenty (120) days and not less than ninety (90) days prior to the general election.

Source: Repealed and reenacted by PL 12-18, § 2 (6331); subsection (b) amended by PL 12-55, § 2 (6331(b)).

Commission Comment: Section 6331 is similar to the former § 6321 (source: DL 5-19, § 11, modified) which was repealed (and reenacted) by PL 12-18, § 2.

PL 12-55, which became effective September 20, 2001, included the following findings:

Section 1. Findings. The Legislature finds administrative necessity to require that candidates for elected offices within the Northern Mariana Islands file their nominating petitions earlier than the 90 days presently required by Public Law 12-18.

§ 6332. Independent Nominations: Failure to Comply With Act.

The Commission may refuse to accept for filing any petition that, on its face, fails to comply with the requirements of the preceding sections.

Source: Repealed and reenacted by PL 12-18, § 2 (6332).

Commission Comment: Section 6332 is similar to the former § 6322 (source: DL 5-19, § 11, modified) which was repealed (and reenacted) by PL 12-18, § 2.

§ 6333. Independent Nominations: Failure of Commission to Act.

If the Commission does not affirmatively take action to deny certification to an independent candidate within forty-five (45) days, prior to the election day, the candidate shall be deemed certified for the general election ballot.

Source: Repealed and reenacted by PL 12-18, § 2 (6333).

Commission Comment: Section 6333 is similar to the former § 6323 (source: DL 5-19, § 11, modified) which was repealed (and reenacted) by PL 12-18, § 2.

§ 6334. Independent Nominations: Filing Fee.

Each petition for an independent candidate for Governor or Lieutenant Governor shall be accompanied by payment to the Commission of a five-hundred dollar (\$500.00) filing fee.

Source: Repealed and reenacted by PL 12-18, § 2 (6334).

Commission Comment: Section 6334 is similar to the former § 6324 (source: DL 5-19, § 11, modified) which was repealed (and reenacted) by PL 12-18, § 2.

Article 4. Nomination of Candidates to Other Offices.

- § 6341. Nominations: Delegate to the United States House of Representatives.
- § 6342. Nominations: Senators and Representatives.
- § 6343. Nominations: Senators and Representatives: Procedures.
- § 6344. Nominations: Mayor.
- § 6345. Nominations: Municipal Councils and Board of Education.
- § 6346. Nominations: Attorney General.

§ 6341. Nominations: Delegate to the United States House of Representatives.

The nomination of candidates for Delegate to the United States House of Representatives is made by petition of any political party or any independent candidate. The procedures for political party nominations and for independent nominations for Governor and Lieutenant Governor set forth in articles 2 and 3 of this chapter shall apply with respect to the nomination of candidates for Delegate to the United States House of Representatives, except that the filing fee shall be five-hundred dollars for each resident representative. Each petition shall be accompanied by the signature of the person nominated, which shall constitute the nominee's assent to be a candidate.

Source: PL 12-18, § 2 (6341); repealed and reserved by PL 16-13 § 3(c); enacted by PL 17-11 § 12 (Aug. 12, 2010), modified.

Commission Comment: The Commission modified this section pursuant to [1 CMC § 3806\(e\) and \(f\)](#). Section 6341 was similar to the former § 6331 (source: DL 5-19, § 12, modified) which was repealed and reenacted by PL 12-18, § 2. Following the enactment of PL 12-18 this section was entitled “Nominations: Resident Representative to United States” until it was repealed and reserved by PL 16-13 § 3(c). See Commission comment to [1 CMC § 6360](#) for more information regarding PL 16-13. PL 17-11 provided the current title of this section. For more information regarding PL 17-11, see comment to [1 CMC § 6205](#).

§ 6342. Nominations: Senators and Representatives.

Political parties shall nominate their candidates for senator or representative in the manner prescribed in their party rules and regulations and according to the provisions of this Chapter. The political party chairman and secretary shall certify to the Commission the names of the party’s nominees not more than one-hundred-twenty (120) days and not less than ninety (90) days before the general election. All certifications of candidates by political parties and independent candidates shall be accompanied by petitions containing the signatures, printed names, residences, and mailing addresses of not less than five percent (5%) or one hundred (100), whichever is less, in the case of a senator, and fifty (50) in the case of a representative, of the registered voters of the respective senatorial or electoral district, as the case may be. Each name certified as a nominee shall be accompanied by the signature of the person nominated, which signature constitutes the nominee’s assent to be a candidate of that political party. The political party may not nominate more candidates than the number of vacancies in the Senate and the House of Representatives.

Source: PL 12-18, § 2 (6342); amended by PL 12-55 (6342).

Commission Comment: Section 6342 is similar to the former § 6332 (source: DL 5-19, § 13, modified) which was repealed and reenacted by PL 12-18, § 2.

PL 12-55, which became effective September 20, 2001, included the following findings:

Section 1. **Findings.** The Legislature finds administrative necessity to require that candidates for elected offices within the Northern Mariana Islands file their nominating petitions earlier than the 90 days presently required by Public Law 12-18.

§ 6343. Nominations: Senators and Representatives: Procedures.

Procedures for political party nominations and for independent nominations for Governor and Lieutenant Governor set forth in Articles 2 and 3 of this Chapter shall apply with respect to the nomination of candidates for senators and representatives, except that the filing fee shall be two-hundred-fifty dollars (\$250.00) for each senator and one-hundred dollars (\$100.00) for each representative paid by the political party or independent candidate.

Source: PL 12-18, § 2 (6343).

Commission Comment: Section 6343 is similar to the former § 6334 (source: DL 5-19, § 13, modified) which was repealed and reenacted by PL 12-18, § 2.

§ 6344. Nominations: Mayor.

(a) Candidates for mayor shall be nominated by petition designating the person seeking nomination and the office sought, containing the signatures, printed names, residences, and mailing addresses of a number of registered voters of that municipality equal to at least five percent or one hundred (100), whichever is less, of the registered voters within that municipality. Each petition shall be accompanied by the signature of the person nominated, which shall constitute the nominee's assent to be a candidate.

(b) The procedures and requirements for political party nomination and for independent nomination for Governor or Lieutenant Governor set forth in Articles 2 and 3 of this chapter shall apply with respect to the nomination of candidates for mayorship, as consistent with this section, except that the filing fee shall be two-hundred-fifty dollars (\$250.00) paid by the political party or independent candidate.

Source: PL 12-18, § 2 (6344).

Commission Comment: Section 6344 is similar to the former § 6335 (source: DL 5-19, § 14, modified) which was repealed and reenacted by PL 12-18, § 2.

§ 6345. Nominations: Municipal Councils and Board of Education.

(a) Candidates for Municipal Council and Board of Education shall be nominated by petition designating the person seeking nomination and the office sought, containing the signatures, printed names, residences and mailing addresses of not less than five percent (5%) or 100, whichever is less, of the registered voters for each respective senatorial election district or mayoral islands, as the case may be, for each nonpartisan candidate. Each petition shall be accompanied by the signature of the person nominated, which shall constitute the nominee's assent to be a candidate.

(b) The procedures and requirements for independent nomination for Governor and Lieutenant Governor set forth in this Chapter shall apply with respect to the nomination of nonpartisan candidates, as consistent with this section, except that the filing fee shall be one-hundred dollars (\$100.00) for each Municipal Council and Board of Education candidate.

Source: PL 12-18, § 2 (6345).

Commission Comment: The Commission omitted the comma after the word "senatorial" in subsection (a).

§ 6346. Nominations: Attorney General.

(a) Candidates for Attorney General shall be nominated by petition designating the person seeking nomination and the office sought, containing the signa-

tures, printed names, residences and mailing addresses of not less than at least two hundred signatures, printed names, residences and mailing addresses registered in the Commonwealth for each nonpartisan candidate for Attorney General. Each petition shall be accompanied by the signature of the person nominated, which shall constitute the nominee's assent to be a candidate.

(b) The procedures and requirements for independent nomination for Governor and Lieutenant Governor set forth in this Chapter shall apply with respect to the nomination of nonpartisan candidates, as consistent with this section, except that the filing fee shall be five hundred dollars for each Attorney General candidate.

Source: PL 18-46 § 3(h) (Apr. 23, 2014), modified.

Commission Comment: The Commission struck the figure "200" from subsection (a) pursuant to [1 CMC § 3806\(g\)](#). The Commission struck an extraneous dash and corrected the spelling of the word "nominee's" in subsection (a) pursuant to [1 CMC § 3806\(g\)](#). The Commission corrected the phrase "five-hundred (\$500) filing fee" in subsection (b) to "five hundred dollars" pursuant to [1 CMC § 3806\(e\) and \(g\)](#).

Article 5. Amendments to the NMI Constitution and Referendums.

§ 6351. Amendments to the NMI Constitution and Referendums.

§ 6351. Amendments to the NMI Constitution and Referendums.

All proposal for amendments to the NMI Constitution pursuant to Article 18 of the NMI Constitution, and all issues of referendum proposed for submission to the voters, shall be certified and submitted to the Commission not more than one-hundred-twenty (120) days and not less than ninety (90) days before the day of the election.

Source: PL 12-55, § 3 (6351).

Article 6. Federal Elections; Delegate to the U.S. House of Representatives.

- § 6360. Qualifications.
- § 6361. Nominations.
- § 6362. Election.
- § 6363. Term.
- § 6364. Vacancy.
- § 6365. Special election.
- § 6366. Procedures.
- § 6367. Authorization for Reprogramming.
- § 6368. Conflict of law.
- § 6369. Reserved.
- § 6370. Reserved.

§ 6360. Qualifications.

To be eligible for the office of Delegate a person shall:

- (a) Be at least 25 years of age on the date of the election;
- (b) Have been a citizen of the United States for at least seven years prior to the date of the election;
- (c) Be a resident and domiciliary of the Commonwealth for at least seven years prior to the date of election;
- (d) Be qualified to vote in the Commonwealth on the date of election; and
- (e) Not be, on the date of the election, a candidate for any other office.

Source: PL 16-13, § 2(6360), modified.

Commission Comment: The Commission removed numbers that repeated words in this section pursuant to [1 CMC § 3806\(e\)](#). PL 16-13 was enacted on August 25, 2008 and contained conforming amendments, severability and savings provisions. In addition, PL 16-13 contained the following:

Section 1. Findings and Purpose. The Commonwealth Legislature finds that [U.S.] Public Law 110-229 created a delegate to the United States House of Representatives for the Commonwealth. The purpose of this Act is to establish procedures for the election of the delegate.

§ 6361. Nominations.

The nomination of candidates for the office of Delegate shall be made by the petition of any political party or by any independent candidate, and shall be made according to the procedures for political parties and independent candidates set forth in this division.

Source: PL 16-13, § 2(6361).

§ 6362. Election.

- (a) The Delegate shall be elected by the people qualified to vote for the popularly elected officials of the Commonwealth of the Northern Islands.
- (b) The election of Delegate shall be conducted at the general election on the Tuesday next after the first Monday in November in even-numbered years, and at such elections every two years hereafter.
- (c) The Delegate shall be elected at-large and by a plurality of the votes cast for the office of Delegate.

Source: PL 16-13, § 2(6362); (b) amended PL 17-11 § 13 (August 12, 2010).

§ 6363. Term.

The term of the Delegate shall commence on the 3rd day of January following the date of election and shall expire upon the subsequent date of commencement of term two years thereafter.

Source: PL 16-13, § 2(6363).

§ 6364. Vacancy.

In the case of a permanent vacancy in the office of Delegate, the office shall remain vacant until a successor is elected and qualified.

Source: PL 16-13, § 2(6364).

§ 6365. Special Election.

(a) In the case of a permanent vacancy in the office of Delegate, the Governor shall call for a special election to be held within 90 days of the date of the call for election; provided that in the event that a vacancy occurs within six months of the next general federal election, no special election shall be called and the office shall remain vacant.

(b) In the event of a tie vote for the office of Delegate, the tie shall be decided by the drawing of lots, under the supervision of the CEC [Commonwealth Election Commission]. Each candidate shall be present at the drawing of lots along with two witnesses. The result of a drawing of lots shall be final and shall not be contestable.

Source: PL 16-13, § 2(6365), modified.

Commission Comment: The Commission added the bracketed information for clarity.

§ 6366. Procedures.

Except as otherwise provided by federal law, the conduct of the election of Delegate to the U.S. House of Representatives shall be according to procedures set forth in this division.

Source: PL 16-13, § 2(6366).

§ 6367. Authorization for Reprogramming.

Notwithstanding any provision of law to the contrary, the Governor shall re-program the sum of \$60,000 from the Office of the Resident Representative's Account to the Commonwealth Election Commission (CEC) for the first Delegate election to be conducted on November 4, 2008. The Commission shall be the expenditure authority for the reprogrammed funds.

Source: PL 16-13, § 2(6367).

§ 6368. Conflict of Law.

Any conflict between this article and federal law shall be resolved in favor of the federal law.

Source: PL 16-13, § 2(6368).

§ 6369. Reserved.

Source: PL 16-13, § 2 (6369).

§ 6370. Reserved.

Source: PL 16-13, § 2 (6370).

CHAPTER 4.

Campaigns and Disclosure.

- Articles**
1. Election Campaigns and Campaign Offenses.
 2. Campaign Financial Disclosure.

Article 1. Election Campaigns and Campaign Offenses.

- § 6401. Receipt of Value: To Vote or Not Vote.
§ 6402. Payment of Value: To Vote or Aid in Securing Nomination for Another.
§ 6403. Payment of Value: To Vote, Not Vote or Reward for Same.
§ 6404. Receipt of Value: To Procure Election or Vote.
§ 6405. Payment of Value to Induce Candidate to Withdraw.
§ 6406. Penalty.
§ 6407. Promising Appointment to Office.
§ 6408. Communication of Promise.
§ 6409. Publications Reflecting on Character of Candidate.
§ 6410. Penalty.
§ 6411. Disqualification.
§ 6412. Application.
§ 6413. Complaints.
§ 6414. Winning Candidate Convicted of a Felony.

§ 6401. Receipt of Value: To Vote or Not Vote.

A person shall not, directly, by himself or through any other person, receive, agree or contract for, before or during an election, any money, gift, loan or other valuable consideration, office, place or employment for himself or any other person, for either:

- (a) Voting or agreeing not to vote;
- (b) Coming or agreeing to come to the polls;
- (c) Refraining or agreeing to refrain from voting;
- (d) Voting or agreeing to vote for or against any particular person or issue;
- (e) Refraining or agreeing to refrain from voting for or against any particular person or issue;
- (f) Inducing any other person to:
 - (1) Vote or refrain from voting;
 - (2) Vote or refrain from voting for or against any particular person or issue;
 - (3) Come to or remain away from the polls.

Source: PL 12-18, § 2 (6401).

§ 6402. Payment of Value: To Vote or Aid in Securing Nomination for Another.

A person shall not, directly, by himself or through any other person, give or receive any money or other valuable thing, before, during or after election because he or any other person:

(a) Voted to secure the election or endorsement of any other person as the nominee or candidate of any convention, organized assemblage of electors or voters, or other body representing or claiming to represent a political party or principal or any clubs, society or association.

(b) Aided in securing the selection or endorsement of any other person as a nominee or candidate as provided in subsection (a).

Source: PL 12-18, § 2 (6402).

§ 6403. Payment of Value: To Vote, Not Vote or Reward for Same.

A person shall not lend or contribute any money or other valuable consideration to or for any voter, or to or for any other person, to:

(a) Induce a voter to:

(1) Vote or refrain from voting at any election;

(2) Vote or refrain from voting at any election for or against any particular person or issue;

(3) Come to the polls at an election;

(4) Remain away from the polls at an election.

(b) Reward a voter for having:

(1) Voted;

(2) Refrained from voting;

(3) Voted for or against any particular person or issue;

(4) Refrained from voting for or against any particular person or issue;

(5) Come to the polls at an election;

(6) Remained away from the polls at an election.

Source: PL 12-18, § 2 (6403).

§ 6404. Receipt of Value: To Procure Election or Vote.

A person shall not, directly or indirectly, by himself or through any other person procure, engage, promise or endeavor to procure, in consequence of any gift, loan, offer, promise, procurement or agreement, the election of any person, or the vote of any voter at an election.

Source: PL 12-18, § 2 (6404).

§ 6405. Payment of Value to Induce Candidate to Withdraw.

A person shall not, directly or indirectly, by himself or through any other person advance or pay, or cause to be paid, any money or other thing of value to or for the use of any other person, in consideration of a person withdrawing as a candidate for a public office.

Source: PL 12-18, § 2 (6405).

§ 6406. Penalty.

Any person who commits any of the offenses set forth in Sections 6401-6405, inclusive, is guilty of a felony punishable by a fine not greater than \$50,000 or not more than five (5) years imprisonment, or both.

Source: PL 12-18, § 2 (6406).

§ 6407. Promising Appointment to Office.

Every person is guilty of a misdemeanor who being a nominee or candidate at any election, offers or agrees to appoint or procure the appointment of any particular person to office, as an inducement or consideration for any person to vote for or to procure, or aid in procuring, the election of any nominee or candidate.

Source: PL 12-18, § 2 (6407).

§ 6408. Communication of Promise.

Every person is guilty of a misdemeanor who communicates any offer made in violation of the preceding Section 6407 to any person with intent to induce him to vote for, or to procure or aid in procuring the election of, the nominee or candidate making the offer.

Source: PL 12-18, § 2 (6408).

§ 6409. Publications Reflecting on Character of Candidate.

Every person is guilty of misdemeanor who intentionally writes, prints, posts or distributes, or causes to be written, printed, posted or distributed any circular, pamphlet, letter or poster which is designed or intended to injure or defeat any candidate for nomination or election to any public office by reflecting upon his personal character or political actions, unless there appears upon the circular, pamphlet, letter or poster, in a conspicuous place, either:

- (a) The name of the chairman and secretary or the names of two (2) officers of the political party or other organization issuing it; or
- (b) The name and residence of the person responsible therefor.

Source: PL 12-18, § 2 (6409).

§ 6410. Penalty.

Any person who commits any of the offenses set forth in Sections 6407-6409, inclusive, is guilty of a misdemeanor punishable by a fine not greater than \$2,000 or not more than 60 days in prison, or both.

Source: PL 12-18, § 2 (6410).

§ 6411. Disqualification.

A candidate convicted under the provisions of Sections 6401-6405, inclusive, of this Chapter is disqualified from holding the office for which he was a candidate or nominee at the time of violating the provisions aforesaid.

Source: Repealed and reenacted by PL 12-18, § 2 (6411).

§ 6412. Application.

The provisions of this Chapter shall apply to all elections.

Source: Repealed and reenacted by PL 12-18, § 2 (6412).

§ 6413. Complaints.

Any person who believes a violation of any provision of this Chapter has occurred by file a complaint with the Commission. The Commission shall expeditiously investigate the matter in accordance with Section 6105. Whenever in the judgment of the majority of the Commission any person has engaged in any acts or practices which constitute a violation of this Chapter, the Commission shall refer the record of the said investigation to the Attorney General who may institute a criminal prosecution under Section 6406 or 6410 of this Chapter against the person, and, in the event the person is convicted of the violation prior to the election in question, the Commission shall strike his name from the ballot. In the event the person is convicted of the violation subsequent to the election in question and was elected to the office for which he was a candidate, the Attorney General shall take whatever civil action is necessary to effect his disqualification from office.

Source: Repealed and reenacted by PL 12-18, § 2 (6413).

§ 6414. Winning Candidate Convicted of a Felony.

If the Commission finds that a winning candidate, who has not yet assumed his office, has been convicted of a felony under this Chapter or under any other Commonwealth law, then the manner of determining his replacement shall be governed as follows:

(a) If a successful candidate for Governor is convicted for the violation of any felony under this part, or under any other law of the Commonwealth or the United States of America, he shall relinquish his office, the successful Lieutenant Governor shall become Governor, and the new Governor shall appoint a Lieutenant Governor.

(b) If a Lieutenant Governor is convicted for violation of any felony under this part, or under any other law of the Commonwealth or the United States of America, he shall relinquish his office and the Governor shall appoint a Lieutenant Governor.

(c) If a successful candidate for Representative to the United States is convicted for violation of any felony under this part, or under any other law of the Commonwealth or the United States of America, he shall relinquish his office and a reelection shall be conducted.

(d) If a successful candidate for Mayor is convicted for violation of any felony under this part, he shall relinquish his office and a new election shall be conducted.

(e) If a successful candidate for the Senate or the House of Representatives is convicted for violation for any felony under this part, he shall relinquish his office and the person having the next highest number of votes shall be declared to have been elected.

(f) If a successful candidate for the Municipal Council or Board of Education is convicted for violation for any felony under this part, he shall relinquish his office and the person having the next highest number of votes shall be declared to have been elected.

Source: Repealed and reenacted by PL 12-18, § 2 (6414).

Article 2. Campaign Financial Disclosure.

- § 6421. Definition.
- § 6422. Duties of Candidates.
- § 6423. [Reserved.]
- § 6424. Campaign Statement of Account; Filing; Verification.
- § 6425. Publication.
- § 6426. Multi-Candidate: Apportionment.
- § 6427. Requirement of Authorization.
- § 6428. Penalties.
- § 6429. Extension of Deadline.
- § 6430. Non-Compliance.

§ 6421. Definition.

Unless the context otherwise clearly requires, the definitions set forth herein shall govern the construction of this Article.

(a) “Campaign Statement of Account” means an itemized statement prepared by a candidate or potential candidate showing the specific source, names of contributors and amount of contributions and expenses, including the names of persons receiving such expense, except where the aggregate fair market value of an expense or contribution is less than five-hundred dollars.

(b) “Candidate” means an individual who filed nomination papers or whose nomination has been certified to the Commission by a political party or committee under the provision of Chapter 3 of this part.

(c) “Potential candidate” means anyone who receives a contribution given or received in contemplation that he or she may become a candidate, whether or not that eventually occurs.

(d) “Committee” means a group of individuals organized for the purpose of aiding the campaign of any candidate.

(e) “Contribution” means a payment, gift, subscription, assessment, contract, payment of services, dues, advance, pledge or promise of any money or anything of value, whether or not legally enforceable, to a candidate, committee or holder of an elective office made for the purpose of influencing the nomination or election of any candidate, or for the qualification, passage, or defeat of any measure. The term “contribution” includes the purchase of tickets for events, such as dinners, luncheons, rallies, and similar fundraising events; the candidate’s own money or property used on behalf of its candidacy, the granting of

discounts or rebates not available to the general public; or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; and any payments for the services of any person serving as an agent of a candidate or committee by a person other than the candidates or committee, or a person whose expenditures the candidates or committee must report under this Chapter. The term “contribution” further includes any transfer of anything of value received by a committee from another committee. The term “contribution” shall not include loans, except forgiveness of loans or payment of loans, volunteer personal services provided without compensation, in payments made by an individual for his travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him, or the use of private property when utilized directly by the owner or lessee thereof in the course of rendering such services. The term “contribution” does not include amounts received pursuant to a pledge or promise to the extent those amounts have been previously reported as a contribution. The provisions of this subsection apply to all potential candidates as defined in subsection (c).

(f) “Expenses” means funds promised or expended by a person in aid of the campaign of a candidate or individual prior to his becoming a candidate and services or property promised or furnished by a person in aid of the campaign of a candidate or individual prior to his becoming a candidate. “Expenses” shall not mean expenditures for the operation of a permanent political party headquarters or for general voter registration drives. Furthermore, “expenses” shall not mean editorial comments made in connection with the normal publication of a newspaper or other periodical or the normal programming of a broadcasting station.

(g) “Election” means any primary, local, special, or general election.

(h) “Person” means any individual, including a candidate, committee, association, political party, partnership, or other group. “Person” shall not mean a domestic, foreign or alien corporation.

Source: Repealed and reenacted by PL 12-18, § 2 (6421); (a) amended by PL 15-6, § 1.

Commission Comment: The Commission removed figures where they were a repetition of words in subsection (a) above pursuant to the authority granted by [1 CMC § 3806\(e\)](#). PL 15-6 was enacted on April 26, 2006, and contained severability and savings clause provisions.

§ 6422. Duties of Candidates.

Upon becoming a candidate, an individual may designate one committee to serve as his campaign committee. The candidate shall appoint a treasurer who shall also be the treasurer of the campaign committee and in that capacity he shall keep a record of all contributions and expenses received and made thereby.

Source: Repealed and reenacted by PL 12-18, § 2 (6422).

§ 6423. [Reserved.]

Source: Repealed and reenacted by PL 12-18, § 2 (6423); repealed in entirety by PL 15-52, § 3.

Commission Comment: Public Law 15-52 took effect on April 11, 2007. See the comment to [1 CMC § 6528](#) regarding PL 15-52.

§ 6424. Campaign Statement of Account; Filing; Verification.

A candidate shall file a detailed financial statement of account prepared with the advice and co-signature of his treasurer or the election or reelection committee with the Office of the Public Auditor and a copy to the Commission within fifty (50) days after the election. Subject to the limitation of Section 6421(a), the statement shall include the names and contributions of supporters contributing in cash or in-kind and a detailed statement of campaign spending. All statements of account shall be verified under oath by the candidate and his treasurer. Such verification shall state that the candidate has used all reasonable diligence in its preparation, and that it is true, full and explicit.

Source: Repealed and reenacted by PL 12-18, § 2 (6424).

§ 6425. Publication.

The Election Commission shall make public all campaign statements of account within ten (10) days after their filing, by publishing them in a newspaper of general circulation in the Commonwealth or by posting the same in certain public places designated by the Commission.

Source: Repealed and reenacted by PL 12-18, § 2 (6425).

§ 6426. Multi-Candidate: Apportionment.

Multi-candidate expenses are those spent by a person in aid of more than one candidate. Such expenses shall be treated as an expense by each candidate supported thereby and shall be apportioned equally among them; except that candidates may agree in advance of the contracting of any multi-candidate at the amount attributable to each if such agreement is filed in advance of said contracting with the Commission. Each candidate participating in such agreement shall retain for a period of one (1) year after the election to which the expense relates, documents supporting the apportionment under such agreement.

Source: Repealed and reenacted by PL 12-18, § 2 (6426).

§ 6427. Requirement of Authorization.

No person other than a candidate or his campaign committee shall incur or contract for any expense in aid of such candidate's campaign unless he applies in writing to the candidate's treasurer at least five (5) days prior thereto for authorization. The request for authorization shall state in detail the amount and nature of any specific expense listed thereon. No person shall incur or contract for any expense if such expense has been disapproved by the treasurer of such candidate in writing within three (3) days of receipt of the request or authorization.

Source: Repealed and reenacted by PL 12-18, § 2 (6427).

§ 6428. Penalties.

Any person violating this Article shall upon conviction be fined not more than fifty-thousand dollars (\$50,000) or imprisoned for not more than one year or both.

Source: Repealed and reenacted by PL 12-18, § 2 (6428).

§ 6429. Extension of Deadline.

For good cause, the Commission may extend the deadline imposed on Section 6424 by not more than fifteen (15) days, upon written request by a candidate. A candidate shall be fined a non-waivable one-hundred dollars (\$100) penalty for each day the financial report is late without a Commission approved extension period.

Source: Repealed and reenacted by PL 12-18, § 2 (6429).

§ 6430. Non-Compliance.

The Public Auditor shall refer any candidate who fails to comply with this Article to the Office of the Attorney General for prosecution.

Source: Repealed and reenacted by PL 12-18, § 2 (6430).

CHAPTER 5.

Elections.

- Articles**
1. General Election and Special Election.
 2. Conduct of Elections.

Article 1. General Election and Special Election.

- § 6501. General Election.
- § 6502. Special Election Subject to the Call of the Governor.
- § 6503. Time of Special Election.
- § 6504. Calling of Special Elections.
- § 6505. Special Elections Subject to the Call of the Legislature.
- § 6506. Funding for General and Special Elections.
- § 6507. Postponement of Election.
- § 6508. Election Day: Holiday.
- § 6509. Runoff Elections for Governor and Lieutenant Governor and Attorney General.
- § 6510. Employees Entitled to Leave on Election Day for Voting.

§ 6501. General Election.

In conformance with Article VIII, Section 1 of the Constitution of the Commonwealth of the Northern Mariana Islands, regular general election of the

Commonwealth shall be held on the Tuesday next after the first Monday in November in even-numbered years. In the event of a natural disaster or other Act of God, the effect of which precludes holding the election on the foregoing day, the Governor, acting pursuant to his powers under Article III, Section 10 of the Constitution, may proclaim the general election be held not later than thirty days thereafter in the Commonwealth, or in the affected senatorial or election district or districts.

Source: Repealed and reenacted by PL 12-18, § 2 (6501); amended PL 17-11 § 14 (Aug. 12, 2010), modified.

Commission Comment: The Commission modified this section pursuant to [1 CMC § 3806\(e\)](#).

§ 6502. Special Elections Subject to the Call of the Governor.

(a) If a vacancy occurs in the legislature, in the office of the Governor or Lieutenant Governor, or in the office of a mayor, which under the Constitution requires an election to fill the vacancy or a recall petition is certified by the Attorney General, the Governor shall call a special election to fill such vacancy.

(b) If the Governor fails to call a special election within thirty (30) days of a constitutional vacancy or the certification of a recall petition, any registered voter may petition the Election Commission to determine and certify that a vacancy requiring a special election exists or that a recall petition has been certified by the Attorney General. Within ten (10) calendar days of receipt of a petition, the Commission shall submit its determination to the Governor. The Governor shall issue a proclamation for a special election within five (5) calendar days of receipt of a Commission certification of vacancy or recall requiring a special election.

(c) If there are simultaneous vacancies in the offices of Governor and Lieutenant Governor and less than one year remains from the date of the first vacancy, the Senate President shall be Acting Governor and the Speaker of the House shall be Acting Lieutenant Governor and both shall serve out the remainder of the terms of their respective offices.

(d) If there is a vacancy in the legislature and less than one-half of the term remains, the Governor shall fill the vacancy in accordance with Article II, Section 9 of the Commonwealth Constitution within thirty (30) days of the date of the vacancy.

(e) If there is a vacancy in the office of mayor and less than one-half of the term remains from the date of the vacancy, or when the mayor is unable to discharge the duties of the office by reason or physical or mental disability, the presiding officer of the Municipal Council shall be acting mayor.

(f) In case of a vacancy on the Board of Education, the Governor shall appoint a replacement pursuant to [1 CMC § 2263](#) regardless of the time remaining in the term of office.

(g) All special elections required hereunder shall be held in accordance with the provisions of this part.

Source: Repealed and reenacted by PL 12-18, § 2 (6502).

§ 6503. Time of Special Election.

Special elections subject to the call of the Governor shall be held on a date set by the Governor which shall be no less than thirty (30) days nor more than sixty (60) days from the date of the proclamation provided for in Section 6502. The Governor shall also set the time limit within which polling places may be designated and declarations of candidates and nominating petitions may be filed.

Source: Repealed and reenacted by PL 12-18, § 2 (6503).

§ 6504. Calling of Special Elections.

All special elections subject to the call of the Governor shall be called by proclamation of the Governor of the Commonwealth. The Commission shall cause a copy of the proclamation to be published in a newspaper of general circulation in the Commonwealth and to be posted in each senatorial election district or mayoral island or islands where such elections will take place.

Source: Repealed and reenacted by PL 12-18, § 2 (6504).

Commission Comment: The Commission replaced the word “were” with “where” in the second sentence of the above section 6504 as such appeared to be a grammatical and contextual typographical error in the original text.

§ 6505. Special Elections Subject to the Call of the Legislature.

Amendments to the Constitution of the Commonwealth of the Northern Mariana Islands, as proposed by popular or legislative initiative or by Constitutional Convention, and such other matters as may be provided by law, shall be placed before the Commonwealth voters for ratification or other action at special elections. Such special elections shall be held no more than sixty (60) days after notification by the legislature by joint resolution to the Election Commission or at such time and in such manner as provided by law or in the legislative initiative proposing the amendment. In accordance with its responsibilities and duties under this part, the Election Commission shall administer and supervise special elections. Voter eligibility and voting procedures shall be in compliance with the provisions of this part.

Source: Repealed and reenacted by PL 12-18, § 2 (6505).

§ 6506. Funding for General and Special Elections.

In the absence of an appropriation for a general or special election conducted pursuant to this part, or for voter education with respect to a proposed amendment to the Constitution, the Governor shall, notwithstanding any other provision of law, reprogram sufficient funds for the conduct of a general or special election, or for voter education, as the case may be, from executive branch accounts to the Election Commission. The Commission is required to publish a Voter’s Manual which shall contain arguments for and against each issue or proposed constitutional amendment submitted by proponents and opponents of each

amendment or proposition. Such a manual would ensure voters to be more informed when they cast their ballots.

Source: Repealed and reenacted by PL 12-18, § 2 (6506).

§ 6507. Postponement of Election.

If for serious cause resulting from any natural phenomena, act of God, or a public enemy, it becomes reasonably impossible to hold any election duly scheduled in the Commonwealth as a whole or in any senatorial or election district, or mayoral island or islands, the Governor may postpone any such election wherein for such time as it any deem necessary, but in no event shall postponement exceed thirty (30) days from the date when such election should have been held.

Source: PL 12-18, § 2 (6507).

§ 6508. Election Day: Holiday.

If an election is held on a day other than a Saturday or Sunday, the election day shall be a legal holiday within the Commonwealth or in the senatorial or election district.

Source: PL 12-18, § 2 (6508).

§ 6509. Runoff Elections for Governor and Lieutenant Governor and Attorney General.

(a) If in an election for the offices of governor and lieutenant governor – no candidate receives more than one-half of the total votes cast and counted, there shall be a runoff election fourteen days after the Commonwealth Election Commission has certified the results of the general election consistent with Article III, Section 4 of the Constitution of the Commonwealth of the Northern Mariana Islands. The Commission shall certify the results of the general election not later than twenty days after the date of the general election.

(b) If, in an election for Attorney General, no candidate receives more than one-half of the total votes cast, there shall be a runoff election fourteen days after the Commonwealth Election Commission has certified the results of the general election consistent with Article III, Section 11(e) of the Constitution of the Commonwealth of the Northern Mariana Islands. The Commission shall certify the results of the general election not later than twenty days after the date of the general election.

(c) The candidates who received the highest and second highest number of votes cast and counted in the general election shall compete in the runoff election. The candidates who receive more than half of the votes cast and counted in the runoff shall be declared the winner.

(d) The Commonwealth Election Commission shall carry out the runoff election in the same manner as provided in [1 CMC § 6208](#), except that the distribution deadlines for eligible voter lists and specimen ballots in [§ 6208\(a\)](#) and [§ 6208\(b\)](#) for the runoff election shall be not less than seven days before the day of the runoff election.

(e) The Commission shall mail absentee ballots, other than absentee ballots that are picked up in person, not less than ten days before the runoff election date. All other matters pertaining to runoff election absentee ballots shall be as provided in chapter 2 of this part.

(f) The Commonwealth Election Commission shall make reasonable rules and regulations, not inconsistent with the constitution and laws of the Commonwealth, as may be necessary to carry out the provisions of this chapter including, but not limited, to the timing, manner and method in which runoff absentee ballots are to be distributed, collected and counted.

Source: PL 16-43, § 2(e); (a) amended PL 17-11 § 15 (Aug. 12, 2010), modified; subsection (b) added and subsections (c) through (f) redesignated by PL 18-46 § 3(i) (Apr. 23, 2014), modified.

Commission Comment: The Commission modified this section pursuant to [1 CMC § 3806\(f\) and \(e\)](#). The Commission struck the figures “1/2,” “14,” and “20” from subsection (b) pursuant to [1 CMC § 3806\(e\)](#). The Commission corrected dashes in subsection (b) to commas pursuant to [1 CMC § 3806\(g\)](#).

§ 6510. Employees Entitled to Leave on Election Day for Voting.

(a) Any voter shall on the day of the election be entitled to be absent from any service or employment in which such voter is then engaged or employed for a period of not more than two hours (excluding any lunch or rest periods) between the time of opening and closing the polls to allow two consecutive hours in which to vote. Such voter shall not because of such absence be liable to any penalty, nor shall there be any rescheduling of normal hours or any deduction made, on account of the absence from any usual salary or wages; provided that the foregoing shall not be applicable to any employee whose hours of employment are such that the employee has a period of two consecutive hours (excluding any lunch or rest periods) between the time of opening and closing the polls when the employee is not working for the employer. If, however, any employee fails to vote after taking time off for that purpose the employer, upon verification of that fact, may make appropriate deductions from the salary or wages of the employee for the period during which the employee is hereunder entitled to be absent from employment.

(b) Any person, business, or corporation who refuses an employee the privileges conferred by this section, or subjects an employee to a penalty or deduction of wages because of the exercise of the privileges, or who directly or indirectly violates this section, shall be subject to a fine of not less than \$50.00 nor more than \$300.00 per violation.

(c) Any action taken to impose or collect the fines established in this section shall be a civil action.

Source: PL 17-11 § 16 (Aug. 12, 2010).

Article 2. Conduct of Elections.

- § 6521. Right to Cast Secret Ballot.
- § 6522. Polling Places: Hours of Operation.
- § 6523. Collection of Ballot Boxes.
- § 6524. Tabulation of Votes.
- § 6525. Ballot Irregularities.
- § 6526. Marking the Ballot.
- § 6527. Loss or Destruction of Ballots.
- § 6528. Polling Places: Three-hundred Foot Radius Prohibition of Campaign Activity.
- § 6529. Public Auditor Assistance.

§ 6521. Right to Cast Secret Ballot.

(a) Each qualified voter has the right to cast a secret ballot in private. The Commission shall set up voting booths and places to guarantee that each voter may vote in private. No person shall be allowed with a voter in a voting booth, except as provided by the Commission. Voting booths shall provide the voter with a fully enclosed space within which to vote.

(b) Except where voting machines are used, each election ballot shall remain sealed until issued to a registered voter. Issues for initiative, referendum and recall shall be listed separately and apart from the names of candidates.

(c) Each qualified voter's right to cast a secret ballot shall be maintained in the courts of the Commonwealth. No voter shall be compelled to reveal his or her vote unless and until he or she has been determined to have been unqualified pursuant to a timely filed voter qualification challenge as provided by law, and then only if and so far as such disclosure is necessary to determine the outcome of an election.

Source: PL 12-18, § 2 (6521); (c) added by PL 17-11 § 17 (Aug. 12, 2010).

Commission Comment: Section 6521 *et seq.*, is similar to the former §§ 6411 (source: DL 5-19, § 16, modified) *et seq.*

ELECTIONS

Voters

— Qualification, Challenge to

Under 1 CMC § 6521, each qualified voter has the right to cast a secret ballot in private. However, longstanding Commonwealth precedent establishes that this secrecy right is limited to qualified voters. Thus, voter secrecy protections do not apply to illegal voters and the trial court, after determining that a voter was an illegal voter, was permitted to ask that voter to disclose his or her vote. *Rebuenog v. Aldan*, 2010 MP 1 ¶ 52 (2010).

— Secret Ballot, Right to Cast

Right to cast a secret ballot in Commonwealth elections is fundamental to democratic system of government. Any infringement of this right must be on

the basis of a substantial government interest. *King v. Board of Elections*, 2 N.M.I. 398 (1991).

Right to cast a secret ballot is confined to qualified voters. Before a voter may complain that his right to cast a secret ballot has been violated, he or she must be a qualified voter. 1 CMC § 6411(a). *King v. Board of Elections*, 2 N.M.I. 398 (1991).

Voter challenge procedure at polls is an election day mechanism that NMI Board of Elections employs to preserve the integrity of elections. While the challenge procedure may at times interfere with a person's right to cast a secret ballot, the procedure is intended to protect a substantial Commonwealth interest and is therefore valid. *King v. Board of Elections*, 2 N.M.I. 398 (1991).

§ 6522. Polling Places: Hours of Operation.

Polling places shall open at 7:00 a.m. on the day of the election and shall be kept open until 7:00 p.m. on the same day, except that any person who is already at the polling place at 7:00 p.m. shall be allowed to vote. The Commission may close any polling place earlier if all the voters of that election district have voted. Whenever possible, public schools and public buildings shall be utilized as polling places during elections. No rent shall be charged or paid for the use thereof.

Source: PL 12-18, § 2 (6522).

§ 6523. Collection of Ballot Boxes.

(a) After all voting is completed, all ballot boxes and voting machines shall be collected by election officials and delivered to the Commission or its duly authorized representative by the safest and most expeditious means available and be certified to the Commission that the ballots so delivered were cast in accordance with the provisions of this part.

(b) Ballot boxes shall only be opened by the Commission or its designated election officials and only upon the order of the Commission.

Source: PL 12-18, § 2 (6523).

§ 6524. Tabulation of Votes.

(a) Except as provided in subsection (d), the Commission shall establish an accounting and tabulation committee composed of not less than five members. The accounting and tabulation committee shall count and tally all votes cast and determine the acceptability thereof.

(1) The accounting of ballots shall begin after all the polls in each election district are closed and shall continue in any tabulating location specified by the Commission until all votes are counted. No person may be present in the vicinity of the counting and tabulation area, except that each political party may have not more than two observers in the area, and each candidate for partisan office not affiliated with a political party may have one observer in the area. When the ballots are in the counting and tabulation area, the area

shall not be left unattended. There shall be a minimum of two election officials at all times, in addition to the two observers from each political party and the observers, if any, representing the independent candidate(s) standing for election to partisan office. For the purpose of this sub-subsection, “partisan office” includes Governor or Lieutenant Governor, Senator, Representative, Delegate to the United States, or Mayor.

(2) Upon the completion of the counting and tabulation of all votes cast in the Commonwealth or local elective office, an official public announcement shall be made by the Commission, except that no official announcement of the results may be made for those offices in which a proceeding affecting ballots or the election results has been initiated until the legality of such issues raised in such proceeding affecting ballots or election results have been determined. As soon as is practicable after the tabulation of ballots is completed, the Commission shall issue certificates of election to the winning candidates for those Commonwealth or local elective offices in which no proceeding affecting ballots or election results has been initiated. The Commission may make periodic announcements of results during tabulating and counting.

(3) If precincts are established, the Board of Election must publish the unofficial precinct results as soon as is practicable after the tabulation of the ballots is completed. If sub-precincts are established, the Board of Election must publish the sub-precinct results as soon as is practicable after the tabulation of the ballots is completed.

(b) In any election where it is impossible to declare a winner because two or more persons receive an equal number of votes for any office, there shall be a run-off to determine the winning candidate or candidates.

(c) Any candidate for Commonwealth Delegate to the United States House of Representatives, mayor, senator, representative, municipal council, or board of education, who receives the highest number of votes cast for that office in any elections shall be declared the winning candidate. In the case of any office where more than one candidate is to be elected, the candidates receiving the highest number of votes, from greatest to least, shall be declared the winning candidates.

(d) Votes physically cast in each Senatorial District’s polling place(s), for Senator, Representative, Municipal Council and Mayor, as well as for any local initiative or any other matter for which only voters registered in one senatorial district may determine the outcome must be preliminarily counted, tabulated, and published in the senatorial district in which they were cast prior to shipment to the Third Senatorial District for the official count.

This preliminary count maybe conducted by one Commission Member in the presence of one representative from the Office of the Public Auditor and one assistant attorney general. Any rejected ballots during the preliminary count either by electronic, mechanical or hand, shall be set aside and sent to the Third Senatorial District for disposition by the Commission during the official count.

Source: PL 12-18, § 2 (6524); amended by PL 16-38, § 8, (d) added by PL 16-38, § 9; (c) and (d) amended by PL 16-43 § 2(f) and (h), respectively, modified; (d) amended by PL 17-11 § 18 (August 12, 2010).

Commission Comment: The Commission modified this section pursuant to 1 CMC § 3806(e) (f), and (g). The Commission removed a period before the semi-colon in subsection (d)(1) to correct a manifest error.

ELECTIONS

Contests

— Statutory Challenge

The language of 1 CMC § 6524(d)(2) is mandatory on its face. Votes cast for certain local positions “must be” “preliminarily counted, tabulated, and published in the senatorial district in which they were cast prior to shipment to the Third Senatorial District for any final counting.” Nothing in 1 CMC § 6524 allows the Commission to waive this obligation. The statute presumes that all votes will eventually end up in the district for which they are cast. The plain language of 1 CMC § 6524(d)(2) requires the Commission to “tabulate[], and publish[]” the results “prior to shipment to the Third Senatorial District.” This also comports with 1 CMC § 6211(c), which specifically provides that “the Commission shall establish a mailbox in each senatorial district at which a voter eligible to cast an absentee ballot may cast and deliver their ballot into the custody of the Commission to be counted as provided by this Chapter.” *Hocog v. Mendiola*, 2009 MP 20 ¶ 11 (2009).

§ 6525. Ballot Irregularities.

(a) If a ballot being counted appears improper, the final decision as to the validity of the ballot shall be made by the Commission. The accounting and tabulation committee shall separate any ballot it believes to be improper and forward the ballot or ballots to the Commission for ultimate determination. All ballots declared invalid for any irregularity shall be sorted or separated and a notation placed upon them indicating that they are rejected ballots. Upon completion of the counting of the ballots, the rejected ballots shall be placed in the ballot box and returned by the accounting and tabulation committee to the Commission with the cast ballots.

(b) At any election, any ballot which is not marked as provided by law shall be void, but the ballot shall be preserved and returned with the other ballots.

(c) Any voter who spoils a ballot may return it to a poll worker and receive another ballot.

(d) At any election, a ballot may not be rejected if it is possible to determine the voter’s choice even though the ballot has been severely soiled or defaced.

(e) If a voter indicates the choice of more candidates than there are offices to be filled or if for any reason it is impossible to determine the voter’s choice for any office, the ballot may not be counted for that office. The rest of the ballot, if properly marked, shall be counted.

Source: PL 12-18, § 2 (6525).

§ 6526. Marking the Ballot.

(a) In voting, the voter shall place the appropriate mark in the voting square adjacent to the name of any nominee for whom he intends to vote.

(b) Should the Commission adopt a ballot form using any mechanical, electromechanical, or electronic device to record the vote or aid in recording the vote, the information required by this section shall appear on the device in the place provided therefore, or otherwise prominently within the voting booth so as to be easily read by the voter.

Source: PL 12-18, § 2 (6526).

§ 6527. Loss or Destruction of Ballots.

In case of the prevention of an election in any election district by the loss or the destruction of the ballots intended for that election district, the election official or other member of the Commission, shall make an affidavit setting forth the fact, and transmit it to the Governor. Upon receipt of the affidavit, the Governor may, and upon the application of any nominee for any office to be voted for by the electors of that election district, shall, order a new election in that election district.

Source: PL 12-18, § 2 (6527).

§ 6528. Polling Places: Three-hundred Foot Radius Prohibition of Campaign Activity.

(a) It shall be unlawful for any person, between the hours of 7:00 a.m. to 7:00 p.m. on the day of the election and during early voting to perform or cause to be performed any of the following acts within a three-hundred foot radius of the polling place:

(1) To solicit in any manner or by any means whatsoever any other person to vote for or against any candidate or proposition being voted on in such election;

(2) To remain within any polling place or within three-hundred feet of the entrance of any polling place, except when exercising the right to vote, after having been directed by an election official to leave the premises;

(3) To hand out, place, or display campaign cards, pictures, stickers, or other campaign literature of any kind or description.

(b) Election officials shall visibly mark the post in a conspicuous place, prior to the opening of the polls, an area of three hundred feet from the perimeter of the polling place and its appurtenances. For the purposes of this section, a polling place and its appurtenances shall include:

(1) The building in which the polling place is located;

(2) Any parking lot adjacent to the building and routinely used for parking at that building;

(3) The routes of access between the building and any parking lot; and

(4) Any route of access between any public thoroughfare (right of way) and the polling place to ensure an open and accessible ingress and egress to and from the polling place for voters.

(c) Law enforcement officers shall assist election commissioners in preserving order, enforcing election laws, and protecting election officials from interference with the performance of their duties. Designated police officers shall assist the Commission for the entire election process until the official results are certified including monitoring the polls during special election, early voting, and election day.

(d) Any voter who displays campaign material in the polling place shall remove or cover that material before entering the polling place.

(e) Section 6528(a) shall not apply to activities conducted on private property.

(f) Any person who violates any provision of this section shall be fined not more than five-hundred dollars or be imprisoned for not more than six months, or both. On a second offense or any succeeding offense, the penalty shall be a fine of not more than one-thousand dollars or imprisonment for not more than one year, or both.

Source: PL 15-52, § 2, modified; (a) amended by PL 17-16 § 2 (Sept. 24, 2010); subsections (b) and (c) amended by PL 18-46 § 3(j) (Apr. 23, 2014), modified.

Commission Comment: The Commission designated a different section number than that specified in the original text of PL 15-52 because the specified section was already assigned, and also changed “Section 6523(a)” to “Section 6528(a)” in subsection (e) above to reflect the proper section number pursuant to the authority granted by [1 CMC § 3806](#). The Commission struck an extraneous dash from subsection (b) pursuant to [1 CMC § 3806\(g\)](#). PL 15-52 was enacted on April 11, 2007, and contained a repealer, severability, and savings clause provisions in addition to the following findings and purpose:

Section 1. Findings and Purpose. The Legislature finds there have been many complaints by voters that they feel harassed or pressured by political party supporters upon entering the polling sites. Some voters have expressed that they often will try to find alternate entries to polling places to avoid political party supporters or even have opted not to vote altogether simply to avoid the ordeal of entering the polling place. Further, overzealous supporters have risked their safety and the safety of others by impeding the flow of traffic. This has resulted in police officers being called in to clear the streets. The Legislature finds that this is unacceptable as it infringes upon the fundamental right of citizens to cast a ballot in an election, free from the taint of intimidation and fraud.

The purpose of this Act is to prohibit political activity within a three hundred foot radius of polling places on election day. The Legislature further finds that many states have enacted similar legislation to: 1) provide for the orderly conduct of elections; 2) maintain integrity in elections; and 3) ensure no interference with voters; therefore, the Legislature finally finds that the CNMI should do no less for its citizens.

See comment to [1 CMC § 6205](#) for more information regarding PL 17-16.

§ 6529. Public Auditor Assistance.

The Office of the Public Auditor shall assist the Election Commission for the entire election process to prevent and detect fraud and any abuse in the election process until the official results are certified including monitoring the polls during special election, early voting, and election day.

Source: PL 18-46 § 3(k) (Apr. 23, 2014).

CHAPTER 6

Election Contests.

- § 6601. Election Contests: Recount.
- § 6602. Election Contests: Actual Prejudice Required.
- § 6603. Election Contest: Written Complaint.
- § 6604. Election Contest: Answer, Summons, Subpoena.
- § 6605. Election Contest: Court Hearing; Recount.
- § 6606. Election Contest: Judgment of the Court.
- § 6607. Election Contest: Certificate of Election.
- § 6608. Election Contests: Costs.
- § 6609. Election Contest: Appeal.
- § 6610. Election Contest: Failure to Appeal from Court Judgment.

§ 6601. Election Contests: Recount.

(a) Any Commonwealth voter may contest an election for any of the following reasons:

- (1) The person declared elected to an office will not be eligible for that office at the beginning of his term.
- (2) The candidate has given to an election official anything of value to procure his election.
- (3) The Commission in the conduct of election or arithmetical tabulation of votes made errors sufficient to change the final result of the election as to any person who has been declared elected.
- (4) Actual fraud by any person in the voting process, in the conduct of the election or in the tabulation of the votes sufficient to have changed the outcome of the election.

(b) *Recount.* If less than five votes separate the person declared elected and the next highest vote getter, the next highest vote getter is entitled to a recount. Such recount shall be made in the presence of the parties and the Commonwealth Superior Court. A quorum of the Commonwealth Election Commission will conduct the recount and will be responsible for the recount and determining marks on ballots and envelopes and determining the intent of the voter.

Source: Repealed and reenacted by PL 12-18, § 2 (6601); amended by PL 17-11 § 19 (Aug. 12, 2010).

Commission Comment: The above §§ 6601 *et seq.*, is similar to the former §§ 6421 (source: DL 5-19, § 17, modified; amended by PL 5-7, § 3) *et seq.*

The enactment of PL 12-18, the Northern Mariana Islands Election Law, on September 14, 2000, required the renumbering of the Executive Transition Act from §§ 6601 *et seq.*, to §§ 6901 *et seq.*, by the Commission.

ELECTIONS

Contests

– Generally

NMI Superior Court has jurisdiction to review election contests based on claims that legal votes were not counted. This jurisdiction emanates from 1 CMC § 6421, which allows election contests arising from the actions of the Board of Elections in the conduct of elections. *Bd. of Elections v. Superior Ct.*, 4 N.M.I. 111 (1994).

— Remedies

The Election Contest Statute (1 CMC §§ 6601-6610) was meant to provide for an expeditious and efficient means for Commonwealth voters to contest election results based on various grounds, including error of the Commission in the conduct of an election. *See* 1 CMC § 6601(a)(4). The Supreme Court reads the Election Contest Statute as only providing three remedies: (1) automatic recount “[i]f less than five votes separate the person declared elected and the next highest vote getter,” 1 CMC § 6601(b); (2) voiding an election for irregularity or improper conduct in the proceedings of the election, 1 CMC § 6602(a); and (3) setting aside an election on account of illegal votes cast. 1 CMC § 6602(b). *Hocog v. Mendiola*, 2009 MP 20 ¶ 13 (2009).

The Election Contest Statute (1 CMC §§ 6601-6610) provides no remedy for voters seeking recount based on errors committed by the Commission where the plaintiff cannot make a prima facie showing that the errors would have affected the outcome of the election under 1 CMC § 6601(a)(4). The practical effect of this statutory scheme is that plaintiffs concerned with blatant procedural violations by the Commission in the conduct of the election simply will not be able to challenge those violations of the law. The Commission literally holds the keys to the ballot box. This power disparity between our public officials and Commonwealth voters, combined with the strict time limits imposed by the legislature for plaintiffs to file election contests, effectively bars plaintiffs from conducting any meaningful discovery or ultimately challenging agency conduct. *Hocog v. Mendiola*, 2009 MP 20 ¶ 13 (2009).

Voters

— Qualification, Challenge to

Under 1 CMC § 6601(a)(3), a Commonwealth voter may contest an election if illegal votes cast were sufficient to change the result of the election of any person who has been declared elected. Illegal votes are any votes cast by a person who is not qualified to vote because of failure to meet age, domiciliary or residency requirements. *Rebuenog v. Aldan*, 2010 MP 1 ¶ 34 (2010).

The legislature has provided two remedies for a cause of action brought pursuant to 1 CMC § 6601(a)(3). One remedy permits the court to declare an elec-

tion winner if it is adjudged that a person other than the defendant has the largest number of legal votes cast in any election contest. A second remedy is provided in 1 CMC § 6602(b), which states that an election may not be set aside on account of illegal votes cast, unless the number of votes given to the person enabled him to win or tie the election and, if the illegal votes were taken from him, would reduce his legal votes so that he would have less votes than necessary to win or tie the election. *Rebuenog v. Aldan*, 2010 MP 1 ¶ 34 (2010).

§ 6602. Election Contests: Actual Prejudice Required.

(a) No irregularity or improper conduct in the proceedings of the election may void an election result, unless the irregularity or misconduct resulted in a defendant being declared either elected or tied for election.

(b) [repealed]

Source: Repealed and reenacted by PL 12-18, § 2 (6602); (b) repealed by PL 17-11 § 20 (Aug. 12, 2010).

ELECTIONS

Contests

– Generally

NMI Superior Court has jurisdiction to review election contests based on claims that legal votes were not counted. This jurisdiction emanates from 1 CMC § 6421, which allows election contests arising from the actions of the Board of Elections in the conduct of elections. *Bd. of Elections v. Superior Ct.*, 4 N.M.I. 111 (1994).

Voters

— Qualification, Challenge to

1 CMC § 6602(b) requires that all remaining illegal votes must be subtracted from the original winning candidate, and if this alters the election outcome, the election must be set aside and a new election ordered. *Rebuenog v. Aldan*, 2010 MP 1 ¶ 55 (2010).

§ 6603. Election Contest: Written Complaint.

(a) When a voter contests any election he shall file with the Commonwealth Superior Court a written complaint setting forth specifically:

- (1) The name of the contestant;
- (2) That he is a voter of the election district in which the contested election was held;
- (3) The name of the defendant;
- (4) The office the defendant sought;
- (5) The particular grounds for the contest; and
- (6) Any other information which the court may require pursuant to court rules.

(b) The contestant shall verify the complaint and shall file and serve it upon the defendant within seven days after the discovery of the fact supporting the

contest, except that no complaint may be filed over fifteen (15) days after the declaration of the official results.

(c) Service of process shall be in accordance with the Rule of Civil Procedure governing personal service.

(d) [repealed].

Source: Repealed and reenacted by PL 12-18, § 2 (6603); (d) repealed by PL 17-11 § 21 (Aug. 12, 2010).

ELECTIONS

Contests

– Generally

Election contest hearings in NMI Superior Court are limited to contests involving non-legislative offices. 1 CMC § 6423. *Taimanao v. Superior Ct.*, 4 N.M.I. 94 (1994).

– Hearings

— Particular Cases

In extraordinary writ proceeding arising from election contests, NMI Supreme Court would decline to issue writ of prohibition prohibiting Superior Court from exercising jurisdiction over contests, despite court's failure to begin contest hearing within fifteen to twenty days after complaints were filed, as required by 1 CMC § 6424, and Board of Election's previous failure to serve complaints upon defendants/writ petitioners within five days of receipt of verified complaint, as required by 1 CMC § 6423. Superior Court was not clearly erroneous in asserting jurisdiction; statutory timeliness requirements relate not to jurisdiction but to legislative intent to hasten election contest proceedings. *Taimanao v. Superior Ct.*, 4 N.M.I. 94 (1994).

– Initiation

The requirement, set forth in 1 CMC § 6603, that a complaint regarding election results may only be filed within fifteen days after the declaration of the official results, acts as an absolute cut-off for filing. *Atalig v. Inos*, 2006 MP 1 ¶ 21, 7 N.M.I. 236, 238 (2006).

Service of election contest complaints is not governed by Com. R. Civ. P. 4 but by express language of 1 CMC § 6423, requiring Board of Elections to deliver copy of complaint to defendant within five days of Board's receipt of complaint. *Taimanao v. Superior Ct.*, 4 N.M.I. 94 (1994).

Where failure to serve timely notice of an election contest upon a defendant is not attributable to the contestant, trial court is not deprived of jurisdiction and should proceed with merits of case. Timely service of complaint is not required to perfect court's jurisdiction. It is timely filing, not service, that perfects the court's jurisdiction to hear contest. 1 CMC § 6423. *Taimanao v. Superior Ct.*, 4 N.M.I. 94 (1994).

Service of a summons upon a defendant is not a prerequisite to trial court's jurisdiction over an election contest under 1 CMC § 6423. *Taimanao v. Superior Ct.*, 4 N.M.I. 94 (1994).

Lack of service of a summons upon a defendant in an election contest does not deprive the defendant of due process. *Taimanao v. Superior Ct.*, 4 N.M.I. 94 (1994).

STATUTES

PARTICULAR TERMS

— Residence

“Residence” is defined in 1 CMC § 6603(r) as that place in which a person's habitation is fixed, and to which, whenever a person is absent, the person has the intention to return; however, a person who is temporarily out of the Commonwealth or the election district for reasons of business, education, government representation, military service, medical referral, medical reasons, natural disaster, or environmental conditions, or employment by the Commonwealth, even for an extended period shall be considered a resident of the Commonwealth and the election district if during that period, he maintains a domicile in the Commonwealth and election district. *Rebuenog v. Aldan*, 2010 MP 1 ¶ 26 (2010).

§ 6604. Election Contest: Answer, Summons, Subpoena.

(a) Within five days after personal receipt of the complaint by the defendant, an answer or any responsive pleading or motion shall be filed with the court. The court shall thereupon set a date for the election contest hearing not less than fifteen (15) days nor more than twenty (20) days from the date of the filing of the complaint.

(b) At the time the court decides the date for the election contest hearing, the court shall issue summons to the parties to appear at the time and place specified in the order. The summons shall be personally served by any authorized person upon the parties at least 5 days before the hearing.

(c) The court shall issue subpoenas for witnesses at the request of any party. The court may compel the attendance of witnesses who have been subpoenaed.

Source: Repealed and reenacted by PL 12-18, § 2 (6604).

—Hearings

The purpose of time limitations within which election contest hearings must be conducted, such as the limitation set forth in 1 CMC § 6424, is to ensure speedy adjudication of election contests. *Taimanao v. Superior Ct.*, 4 N.M.I. 94 (1994).

Statute directing NMI Superior Court to set date for election contest hearing not less than fifteen days nor more than twenty days from date of filing of complaint requires court to actually commence hearing on merits of contestants' claims within fifteen and twenty-day limits. 1 CMC § 6424. *Taimanao v. Superior Ct.*, 4 N.M.I. 94 (1994).

Time limitations within which NMI Superior Court must conduct election contest hearings are not meant to restrict court's jurisdiction. 1 CMC § 6424. *Taimanao v. Superior Ct.*, 4 N.M.I. 94 (1994).

Statute concerning NMI Superior Court's jurisdiction over election contests does not contain any language expressly revoking or limiting court's jurisdiction where contest hearing is not initiated within stated time period. Legislature intended court to resolve election contests in expedited fashion; time limitations were meant to effectuate and not to frustrate that purpose. Statute is not a jurisdictional limitation and should not be technically construed. 1 CMC § 6424. *Taimanao v. Superior Ct.*, 4 N.M.I. 94 (1994).

—Particular Cases

Trial court did not lose jurisdiction over election contest because it granted hearing continuance beyond time limitation specified in statute to allow contestant to meaningfully oppose motion to dismiss action. 1 CMC § 6424. *Taimanao v. Superior Ct.*, 4 N.M.I. 94 (1994).

Trial court acted within scope of its discretion in granting hearing continuance in election contest beyond time limitation specified in statute to allow contestant to meaningfully oppose motion to dismiss action. Statute does not prohibit grant of continuance under such circumstances. 1 CMC § 6424. *Taimanao v. Superior Ct.*, 4 N.M.I. 94 (1994).

In extraordinary writ proceeding arising from election contests, NMI Supreme Court would decline to issue writ of prohibition prohibiting Superior Court from exercising jurisdiction over contests, despite court's failure to begin contest hearing within fifteen to twenty days after complaints were filed, as required by 1 CMC § 6424, and Board of Election's previous failure to serve complaints upon defendants/writ petitioners within five days of receipt of verified complaint, as required by 1 CMC § 6423. Superior Court was not clearly erroneous in asserting jurisdiction; statutory timeliness requirements relate not to jurisdiction but to legislative intent to hasten election contest proceedings. *Taimanao v. Superior Ct.*, 4 N.M.I. 94 (1994).

§ 6605. Election Contest: Court Hearing; Recount.

(a) At the hearing the ballots shall be recounted in the presence of all parties, where it appears from the complaint that actual prejudice occurred making a recount necessary for the proper determination of the contest. If two or more statements of contest are filed requiring a recount, the Commission may join the action of the contestants for the purpose of recounting the votes.

(b) If the statements of the cause of the contest are insufficient, the court may dismiss the proceedings for lack of evidence or for want of prosecution.

(c) The court shall hear and determine all issues arising in contested elections, except that the Commonwealth Election Commission's determinations concerning the intent of a voter in marking a ballot are unreviewable and shall not be judicially disturbed. After hearing the evidence and within five days of the submission thereof, the court shall issue its findings of fact and conclusions of

law, and immediately thereafter announce judgment in the case, either confirming, or reversing the result of the election.

(d) A quorum of the Commonwealth Election Commission will conduct the recount in the presence of the Court. The quorum will be responsible for the recount and determining marks on ballots and envelopes and determining the intent of the voter.

Source: Repealed and reenacted by PL 12-18, § 2 (6605); (a) and (c) amended and (d) added by PL 17-11 § 22 (August 12, 2010), modified.

ELECTIONS

Contests

—Appellate Review: Extraordinary Writ

In context of challenge to NMI Superior Court ruling in election contest, where court's ruling raises issues never briefed by parties, a motion to reconsider is a procedural prerequisite to an application for exercise of NMI Supreme Court's supervisory jurisdiction pursuant to petition for writ of prohibition. 1 CMC § 6425(c). *Mundo v. Superior Ct.*, 4 N.M.I. 392 (1996).

NMI Supreme Court's review of election contests pursuant to petition for writ of prohibition is limited to instances of flagrant misrepresentations of binding law, arbitrary and capricious findings of fact, or wrongful conduct. 1 CMC § 6425(c). *Mundo v. Superior Ct.*, 4 N.M.I. 392 (1996).

—Particular Cases

Petition for extraordinary writ of prohibition nullifying NMI Superior Court order in election contest, filed in original action before NMI Supreme Court, invoked Supreme Court's supervisory jurisdiction. 1 CMC § 3104. *Mundo v. Superior Ct.*, 4 N.M.I. 392 (1996).

—Generally

Expedited timetable and special statutory framework of election contest, mandating that NMI Superior Court's judgment is "final and unappealable," means that, absent exceptional circumstances, Superior Court should have the last word on the matter. 1 CMC § 6425(c). *Mundo v. Superior Ct.*, 4 N.M.I. 392 (1996).

Statute providing that trial court judgment in election contest is "final and unappealable" is based on strong public policy considerations that election contests should not be permitted to drag on indefinitely, disrupting ability of elected officials to discharge their duties during significant portions of their terms. 1 CMC § 6425(c). *Mundo v. Superior Ct.*, 4 N.M.I. 392 (1996).

In election contests, time limits are not meant to restrict court's jurisdiction. 1 CMC § 6425(c). *Mundo v. Superior Ct.*, 4 N.M.I. 392 (1996).

Once a valid claim has been stated under an election contest statute and a court has properly assumed jurisdiction, procedural defects in adjudication of contest will not strip court of jurisdiction thus assumed. *Mundo v. Superior Ct.*, 4 N.M.I. 392 (1996).

Statutes governing election contests are to be strictly construed. *Mundo v. Superior Ct.*, 4 N.M.I. 392 (1996).

NMI Legislature has conferred jurisdiction in Superior Court to entertain election contests to ensure fairness in the conduct of elections. *Board of Elections v. Superior Ct.*, 4 N.M.I. 111 (1994).

NMI Superior Court has jurisdiction to review election contests based on claims that legal votes were not counted. This jurisdiction emanates from 1 CMC § 6421, which allows election contests arising from the actions of the Board of Elections in the conduct of elections. *Board of Elections v. Superior Ct.*, 4 N.M.I. 111 (1994).

Jurisdiction over election contests derives solely from statute. *Taimanao v. Superior Ct.*, 4 N.M.I. 94 (1994).

NMI Legislature has conferred jurisdiction on Superior Court to entertain election contests to ensure fairness in the conduct of elections in the Commonwealth. 1 CMC § 6002. *Taimanao v. Superior Ct.*, 4 N.M.I. 94 (1994).

Election contest hearings in NMI Superior Court are limited to contests involving non-legislative offices. 1 CMC § 6423. *Taimanao v. Superior Ct.*, 4 N.M.I. 94 (1994).

Once the complaint in an election contest has been timely filed, the trial court obtains subject matter jurisdiction to resolve the matter. *Taimanao v. Superior Ct.*, 4 N.M.I. 94 (1994).

Statutory intent to defeat exercise of court's jurisdiction over election contests will not be supplied by implication. *Taimanao v. Superior Ct.*, 4 N.M.I. 94 (1994).

—Remedies

—Particular Cases

Although trial court erred in permitting disenfranchised voters to add their votes into tally at later date, a remedy not expressly called for in election contest statute, error arose from plausible reading of statute and therefore was not a flagrant misinterpretation of binding law under criteria for NMI Supreme Court's issuance of writ of prohibition nullifying trial court ruling. 1 CMC § 6425(c). *Mundo v. Superior Ct.*, 4 N.M.I. 392 (1996).

Because NMI had applicable written law in the form of election contest statute, U.S. common law rule prohibiting correction of election result by asking small number of voters to vote after impact of their votes is known was not binding in NMI. 1 CMC § 6425(c); 7 CMC § 3401. *Mundo v. Superior Ct.*, 4 N.M.I. 392 (1996).

Initiatives

—Certification

NMI Attorney General has constitutional duty to certify (or not certify) an initiative petition before an initiative is submitted to the voters. *Tenorio v. Superior Ct.*, 1 N.M.I. 1 (1989).

It is not unusual that a jurisdiction use, as a basis for computing the minimum required percentage to place an initiative before the voters, the immediately preceding general election's total number of registered voters. *Tenorio v. Superior Ct.*, 1 N.M.I. 1 (1989).

—Particular Cases

Superior Court's decision to invalidate NMI Board of Elections regulations concerning certification of initiative to ballot because no provision was made for proportional increase in the number of qualified voter signatures to match increase in number of voters between initial cut-off date and date of final submission of petitions was clearly erroneous. N.M.I. Const. art. XVIII, § 4(a). *Tenorio v. Superior Ct.*, 1 N.M.I. 1 (1989).

NMI Board of Election regulations concerning certification of initiative measure for ballot based on number of registered voters at time of cut-off date were neither inherently nor expressly unconstitutional. N.M.I. Const. art. XVIII, § 4(a). *Tenorio v. Superior Ct.*, 1 N.M.I. 1 (1989).

—Generally

N.M.I. Const. art. IX, § 1 provides for two types of initiatives: those which are local in scope and those which are Commonwealth-wide in coverage. *Commonwealth v. Tinian Casino Gaming Control Comm'n*, 3 N.M.I. 134 (1992).

Voters

—Qualification, Challenge to

Plain meaning of PL 5-7, 1 CMC §§ 6421 *et seq.*, is that jurisdiction of NMI Board of Elections was withdrawn only as to election contests. The law did not address issue of voter challenges. If the legislature intended to withdraw jurisdiction of Board concerning voter challenges, it would have clearly stated its intention in PL 5-7. Since it did not do so, Board retained its jurisdiction concerning voter challenges after enactment of PL 5-7. *King v. Board of Elections*, 2 N.M.I. 398 (1991).

A qualified voter's right to vote is diluted if unqualified persons vote. Therefore, the Commonwealth has a substantial interest in ensuring that only qualified voters cast votes. *King v. Board of Elections*, 2 N.M.I. 398 (1991).

Voter challenge procedure at polls is an election day mechanism that NMI Board of Elections employs to preserve the integrity of elections. While the challenge procedure may at times interfere with a person's right to cast a secret ballot, the procedure is intended to protect a substantial Commonwealth interest and is therefore valid. *King v. Board of Elections*, 2 N.M.I. 398 (1991).

§ 6606. Election Contest: Judgment of the Court.

If it is adjudged that a person other than the defendant has the largest number of legal votes cast in any election contest, the court shall declare that person elected.

Source: Repealed and reenacted by PL 12-18, § 2 (6606).

ELECTIONS

Voters

— Qualification, Challenge to

Under 1 CMC § 6606, a court may declare an election winner if it is adjudged that a person other than the defendant has the largest number of legal votes cast in any election. Since all votes are either legal or illegal, to make the determination required by § 6606, illegal votes must be separated from total votes in order to determine the total number of legal votes. To determine the proper election remedy, the first step is for the trial court to determine the number of illegal voters and corresponding number of illegal votes. *Rebuenog v. Aldan*, 2010 MP 1 ¶ 36 (2010).

The second step under 1 CMC § 6606 is to determine whether a candidate other than the defendant has the largest number of legal votes. A winner must be declared if he or she has the largest number of legal votes cast. However, a party can only be declared to have the largest number of legal votes if – after the trial court has determined the number of illegal votes and attempted to attribute them – the margin of victory is greater than the number of unattributed illegal votes. If illegal votes remain included in the vote total, and the illegal votes exceed margin of victory, then it is impossible to know with certainty who received the largest number of legal votes. Accordingly, if the margin of victory is greater than the number of illegal votes a winner can be declared; however, if this requirement is not met, § 6606 cannot be applied to produce an election winner. *Rebuenog v. Aldan*, 2010 MP 1 ¶ 37 (2010).

Under 1 CMC § 6606, an election may be set aside on account of illegal votes cast if the illegal votes, if taken from the original election winner, would cause that person to either lose the election or be tied. *Rebuenog v. Aldan*, 2010 MP 1 ¶ 38 (2010).

Under 1 CMC § 6606, the third step the trial court must follow – after determining the number of illegal voters and subtracting illegal votes from each candidate’s total votes – is that if relief cannot be granted under § 6606, the number of illegal votes that cannot be attributed to either candidate must be subtracted from the original winner’s legal votes. If this changes the outcome of the election, a new election is required. Stated differently, if the new margin of victory is less than or equal to the number of illegal votes that cannot be attributed to either candidate, the election must be set aside and a new election ordered. *Rebuenog v. Aldan*, 2010 MP 1 ¶ 38 (2010).

§ 6607. Election Contest: Certificate of Election.

(a) Upon the expiration of the time for appeal, the person declared elected by the court is entitled to a certificate of election. If a certificate has not already been issued to him by the Commission, the Commission shall immediately make out and deliver to that person a certificate of election.

(b) If the Commission has issued any certificate for the same office to another person than the one declared elected by the court, such certificate shall become void by the judgment of the court.

Source: Repealed and reenacted by PL 12-18, § 2 (6607).

§ 6608. Election Contests: Costs.

(a) If the proceedings under this section are dismissed for insufficient evidence or for want of prosecution, or the election is confirmed by the court, judgment shall be rendered against the contestant, for costs and reasonable attorneys' fees, in favor of the defendant. If the election results are reversed, judgment for costs and reasonable attorneys' fees shall be rendered against the defendant, in favor of the contestant.

(b) Where two or more contests are joined for the purpose of recounting votes as provided in this article, the costs may be apportioned among the parties in the discretion of the court.

Source: Repealed and reenacted by PL 12-18, § 2 (6608).

§ 6609. Election Contest: Appeal.

Any party aggrieved by the judgment of the Commonwealth superior Court may appeal to the Supreme Court of the Northern Mariana Islands as in other cases, except that from the day of judgment, the notice of appeal shall be filed within three (3) days, the applicant's brief within ten (10) days, the appellee's brief within fifteen (15) days, oral arguments shall be heard within twenty (20) days, and the appellate judgment shall be issued within thirty (30) days. During the pendency of proceedings on appeal, and until final determination thereof, the person declared elected by the Commonwealth Superior Court shall be entitled to the office in like manner as if no appeal had been taken. Any lawful action taken by the person in office is valid, even if that person is subsequently removed.

Source: Repealed and reenacted by PL 12-18, § 2 (6609).

§ 6610. Election Contest: Failure to Appeal from Court Judgment.

Whenever an election is reversed by the judgment of the Commonwealth Superior Court, and no appeal is taken within three (3) days thereafter, the certification, if any has been issued, is void and the office is filled by the person declared to be elected.

Source: Repealed and reenacted by PL 12-18, § 2 (6610).

CHAPTER 7.

Criminal Penalties.

- § 6701. Counterfeit Ballots.
- § 6702. Unlawful Threats to Candidate or Family.
- § 6703. Unlawful Threats to Election Personnel.
- § 6704. Unlawful Registration.
- § 6705. Unlawful Campaign Activities.
- § 6706. Unlawful Sale or Purchase of Alcohol on Election Day.

§ 6701. Counterfeit Ballots.

Any person who knowingly, willfully and unlawfully prints, copies, imitates, or distributes or causes to be printed, copied, imitated, or distributed any unofficial ballot or any document that is so substantially similar in style or content to the official ballot as to cause the likelihood of confusion with the official ballot shall upon conviction be fined \$5,000, imprisoned for a minimum of sixty (60) days, or both. There shall be no suspended sentences.

Source: PL 12-18, § 2 (6701).

Commission Comment: Section 6701 *et seq.*, is similar to the former §§ 6501 (source: DL 5-19, § 7) *et seq.*

§ 6702. Unlawful Threats to Candidate or Family.

Any person who directly or indirectly threatens or intimidates any candidate or his immediate family by physical means, bribery, extortion, or any other means so as to attempt or cause the candidate to withdraw from the election shall upon conviction be fined \$5,000 or imprisoned for not less than sixty (60) days nor more than five years.

Source: PL 12-18, § 2 (6702).

§ 6703. Unlawful Threats to Election Personnel.

Any person who directly or indirectly threatens or intimidates the Commission, its designees, its representatives or its election workers so as to attempt or cause those persons not to perform their duties and responsibilities lawfully and in a proper manner, shall upon conviction be fined not more than \$2,000 or imprisoned for not less than ninety (90) days and not more than five (5) years. There shall be no suspended sentences.

Source: PL 12-18, § 2 (6703).

§ 6704. Unlawful Registration.

A person who signs an affidavit of registration knowing that he does not qualify to vote or who knowingly registers with intent to vote more than once or who registers in an election district in which he does not reside shall, upon conviction, be fined not more than \$2,000 or imprisoned for not more than two (2) years. A

person who willfully causes, procures, or allows any person to be registered as a voter, knowing that person is not to be entitled to registration, shall upon conviction be fined not more than \$2,000 or imprisoned for not more than two (2) years.

Source: PL 12-18, § 2 (6704).

§ 6705. Unlawful Campaign Activities.

(a) No person may use the name of the government department or agency to campaign for or express support for a candidate running for public office; nor shall the buying or selling of fundraising materials in support of candidates for public office take place in any government building or facility.

(b) All campaign posters shall be removed from public places by the candidate no later than fifteen days after the election date.

(c) No campaign materials, or hard board, used as a poster, may be attached to any telephone pole, fire hydrant or tree on public property.

Any person who knowingly and willfully violates any provision of this section shall, upon conviction, be fined \$500.

Source: PL 12-18, § 2 (6705); (a), (b), and (c) repealed in entirety and subsequent sections (d), (e), and (f) redesignated as (a), (b), and (c), respectively, by PL 15-52, § 3.

Commission Comment: Public Law 15-52 took effect on April 11, 2007. See the comment to [1 CMC § 6528](#) regarding PL 15-52.

§ 6706. Unlawful Sale or Purchase of Alcohol on Election Day.

(a) No person may sell, purchase or dispense any alcoholic beverages or liquor while the polls are open on the day of an election. Any person who knowingly and willfully violates this section shall upon conviction be fined not more than \$1,000 or imprisoned for not more than one hundred days, or both.

(b) This section shall not apply to concession stands on Managaha Island, CNMI airports, hotels, hotel resorts, or golf course resorts.

Source: PL 12-18, § 2(6706); amended by PL 16-18, § 2, modified; (b) amended by PL 16-45, § 2.

Commission Comment: The Commission deleted numbers that repeated words in this section pursuant to the authority granted by [1 CMC § 3806\(e\)](#). Public Law 16-18 took effect on October 31, 2008. PL 16-18 contained severability and savings provisions and the following:

Section 1. Findings and Purpose. The prohibition of alcoholic beverage sales on Election Day is to prevent conflicts between party camps escalating. The Commonwealth Legislature finds, however, that this prohibition has a potential loss of economic growth within our tourism industry. This is an industry that the CNMI has been largely dependent on for its economic growth for the past 30 years. Thus, our tourists' visit within the CNMI should not be hampered in any way. Tourists visiting the Commonwealth on Election Day are restricted from purchasing alcoholic beverages for their consumption though they are not involved with local political affairs. The purpose of this Act therefore, is to exempt CNMI

airports, hotels, hotel resorts, and golf course resorts from the prohibition of alcoholic beverage sales on Election Day.

Public Law 16-45, effective on August 20, 2008, contained severability and savings provisions and the following:

Section 1. Findings and Purpose. The prohibition of alcoholic beverage sales on Election Day is to prevent conflicts between party camps from escalating. The Commonwealth Legislature finds, however, that this prohibition has a potential loss of economic growth within our tourism industry. As a result, Public Law 16-18 was enacted to exempt CNMI airports, hotels, hotel resorts, and golf course resorts from such prohibition. The Commonwealth Legislature further finds that Managaha Island, a popular tourist destination, was inadvertently excluded from the exemption. The purpose of this Act, therefore, is to include Managaha Island under this exemption.

3806(g).