

CHAPTER 3.**TRUSTEE LICENSING****ARRANGEMENT OF SECTIONS****Section**

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An Act to provide for the licensing of trustees in the Republic of the Marshall Islands.

Commencement: 10 October 1994
 Source: P.L. 1994-111

§301. Short Title.

This Chapter may be cited as the "Trustee Licensing Act 1994". [P.L. 1994-111, §1.]

§302. License requirement.

Every Marshall Islands trustee administering a Marshall Islands trust and residing or conducting business in the Republic must be licensed under this Chapter or qualify under the provisions of the Trust Company Act of 1994. [P.L. 1994-111, §2.]

§303. Application for a trustee license.

An application for the grant of a trustee license shall be made in writing to the Commissioner of Trust Companies and shall in addition to the information that may be required under the regulations, contain the following particulars;

- (a) the name and the address of the trustee and his/her principal office of business within the Republic;
- (b) the qualifications of the trustee including any professional license or trust administration experience;
- (c) the specific type of trust business to be conducted;
- (d) financial information including a detailed list of personal assets and tax returns for the three years preceding this application;
- (e) a letter or document from an approved body under Section 309 of this Chapter, indicating the current insurance covering assets held;

(f) an initial non-refundable application fee of \$_____ ¹

(g) such other particulars or information as may be required under this Chapter or regulations made thereunder. [P.L. 1994-111, §3.]

§304. Grant or refusal of license.

On receipt of the application, the Commissioner shall grant, or without assigning any reason therefor, refuse to grant a license. [P.L. 1994-111, §4.]

§305. Trustee license.

(1) In granting a license to a trustee (which license shall be in writing), the Commissioner may specify any terms and conditions which shall be complied with by the trust company.

(2) No license shall be issued or renewed except upon the payment of the license fee referred to in Section 306 of this Chapter.

(3) A licensed trustee shall not engage in any trust business other than the business specified in the license.

(4) The initial license granted shall be valid from the date of issue to the end of December of the same year and the license shall thereafter be issued for a period of twelve (12) months beginning the first day of January of each succeeding year.

(5) The application for renewal shall be made prior to the expiration of the current license along with the license fee and providing such information as may be required by the Commissioner under this Chapter or the regulations made thereunder.

(6) A copy of the license granted to the trustee under this Chapter shall be kept displayed conspicuously in all places of business of the trustee within the Republic. [P.L. 1994-111, §5.]

§306. License fee.

Every trustee shall pay to the Commissioner an annual license fee of \$_____ ². [P.L. 1994-111, §6.]

§307. Suspension, revocation or variation of license.

(1) In the case of a licensed trustee:

(a) where the Commissioner is satisfied that the licensed trustee has failed to comply with any terms and conditions of its license issued under Section 305 of this Chapter;

(b) where the trustee has failed to pay his/her debts generally as they become due, or has declared bankruptcy;

(c) where a trustee has ceased to do trust business;

(d) who violates any of the provisions of this Chapter or the regulations made thereunder;

(e) who fails to pay the license fee when due;

(f) who fails to comply with any direction issued by the Commissioner as specified under this Chapter or the regulations made thereunder;

¹[Amount not in original Act]

²[Amount not in original Act]

(g) who knowingly gives any information to the Commissioner which is untrue or misleading;

(h) who is, in the opinion of the Commissioner, carrying on business in or from within the Republic in a manner detrimental to the public interest or to the interest of the settlers, beneficiaries, protectors, trustees, and other clients of the trustee, the Commissioner may, by notice given in writing, suspend the license and require the trust company to show cause why the license should not be revoked or varied.

(2) A licensed trustee may, within sixty (60) days after the receipt of notice of suspension of the license under Subsection (1) above, submit to the Commissioner reasons why the license should not be revoked or varied.

(3) The Commissioner shall, within thirty (30) days from the receipt of the reasons referred to in Subsection (2) above;

(a) either revoke or vary the license; or

(b) withdraw the suspension unconditionally. [P.L. 1994-111, §7.]

§308. Immunity.

Notwithstanding anything contrary to any other law, no action or proceeding may be instituted in any court against the Commissioner, an authorized officer, or the Government of the Marshall Islands, with respect to any loss or damage incurred, likely to be incurred, or alleged to be incurred by reason of any action done with respect to the issuance of a trustee license, direction or regulation of the licensee. [P.L. 1994-111, §8.]

§309. Insurance.

(1) The Commissioner may require a licensee to effect a policy of insurance with a reputable insurance company against:

(a) losses arising out of claims of negligence or breach of duty by the licensee or any employee;

(b) the dishonesty of employees or of the licensee;

(c) loss of documents;

(d) such other risk as the Commissioner may from time to time stipulate;

in such amount and of such a nature as the Commissioner may determine to be fit and proper, having due regard to the nature and the type of business carried on by the licensee.

(2) In the event that the insurance is withdrawn, canceled or not renewed, the licensee shall immediately notify the Commissioner and shall cease to carry on its business until the insurance has been reinstated or replaced. [P.L. 1994-111, §9.]

§310. Transacting trust business without a license.

If the Commissioner has reasonable ground to believe that any person is transacting trust business without a license he may examine, or authorize an officer in writing to examine, the books, accounts and records of such person for the purpose of ascertaining whether such person has contravened or is contravening any of the provisions of this Chapter. Any refusal by such person to submit such books, accounts or records to the Commissioner or authorized officer shall be prima facie evidence that such person is transacting trust business without a license. [P.L. 1994-111, §10.]

§311. Penalty.

(1) If any person referred to in Section 310 of this Chapter is transacting trust business without a license he shall be guilty of an offense and shall upon conviction be liable to.

a fine not exceeding \$____³.

(2) Any applicant who knowingly or recklessly furnishes any information which is false or misleading in a material particular in connection with an application under this Chapter, shall be guilty of an offense and shall upon conviction be liable to a fine not exceeding \$_____ or to a term of imprisonment not exceeding six (6) months, or both. [P.L. 1994-111, §11.]

³[Amount not in original Act]