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SENATE BILL 270

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Patrick H. Lyons

AN ACT

**RELATING TO CONSTRUCTION; EXPANDING THE DUTIES OF THE
CONSTRUCTION INDUSTRIES DIVISION OF THE REGULATION AND
LICENSING DEPARTMENT; MAKING THE CONSTRUCTION INDUSTRIES
COMMISSION ADVISORY; CHANGING DEFINITIONS; CHANGING PERMIT
REQUIREMENTS; ALLOWING PERSONS TO BID TO PERFORM CONTRACTING
WORK BEFORE THEY ARE LICENSED; ELIMINATING THE RECERTIFICATION
INCENTIVE PLAN FOR STATE INSPECTORS; CHANGING FEES; AMENDING
SECTIONS OF THE NMSA 1978.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 3-18-7 NMSA 1978 (being Laws 1975,
Chapter 14, Section 1) is amended to read:**

**"3-18-7. ADDITIONAL COUNTY AND MUNICIPAL POWERS-- FLOOD
AND MUDSLIDE HAZARD AREAS-- BUILDING PERMITS-- LAND USE
CONTROL-- JURISDICTION-- AGREEMENT. --**

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1 A. For the purpose of minimizing or eliminating
2 damage from floods or mudslides in designated flood-prone
3 areas and for the purpose of promoting health, safety and the
4 general welfare, a county or municipality may by ordinance:

5 (1) designate and regulate flood plain areas
6 having special flood or mudslide hazards;

7 (2) prescribe standards for constructing,
8 altering, installing or repairing buildings and other
9 improvements under a permit system within a designated flood
10 or mudslide hazard area;

11 (3) review subdivision proposals and other
12 new developments within a designated flood or mudslide hazard
13 area to assure that:

14 (a) all such proposals are consistent
15 with the need to minimize flood damage;

16 (b) all public utilities and facilities
17 such as sewer, gas, electrical and water systems are designed
18 to minimize or eliminate flood damage; and

19 (c) adequate drainage is provided so as
20 to reduce exposure to flood hazards;

21 (4) require new or replacement water supply
22 systems or sanitary sewage systems within a designated flood
23 or mudslide hazard area to be designed to minimize or
24 eliminate infiltration of flood waters into the systems and
25 discharges from the systems into flood waters and require on-

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1 site waste disposal systems to be located so as to avoid
2 impairment of them or contamination from them during flooding;
3 and

4 (5) designate and regulate floodways for the
5 passage of flood waters.

6 B. Any ordinance adopted pursuant to this section
7 shall substantially conform to the minimum standards
8 prescribed by the federal insurance administration, regulation
9 1910 issued pursuant to Subsection 7(d), 79 Stat. 670, Section
10 1361, 82 Stat. 587 and 82 Stat. 575, all as amended.

11 C. A county or municipality shall have exclusive
12 jurisdiction over permits issued under its respective
13 ordinance and in accordance with this section and so long as
14 it is enforced by an approved inspector pursuant to the
15 Construction Industries Licensing Act. Notwithstanding
16 Section [~~14-17-5 NMSA 1953~~] 3-18-6 NMSA 1978, when a
17 municipality adopts an ordinance pursuant to Paragraph (2) of
18 Subsection A of this section, the municipality's jurisdiction
19 under this ordinance shall take precedence over a respective
20 county ordinance within the municipality's boundary and within
21 the municipality's subdividing and platting jurisdiction.

22 D. A county or municipality shall designate flood
23 plain areas having special flood or mudslide hazards in
24 substantial conformity with areas identified as flood- or
25 mudslide-prone by the federal insurance administration

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1 pursuant to the national flood insurance program

2 E. A municipality or county adopting any ordinance
3 pursuant to this section may enter into reciprocal agreements
4 with any agency of the state, other political subdivisions or
5 the federal government in order to effectively carry out the
6 provisions of this section.

7 F. Within their respective jurisdiction, the
8 [~~environmental improvement agency division of~~] department of
9 environment or the construction industries [~~commission~~]
10 division of the regulation and licensing department may assist
11 counties or municipalities when requested by a county or
12 municipality to provide technical advice and assistance. "

13 Section 2. Section 9-16-12 NMSA 1978 (being Laws 1983,
14 Chapter 297, Section 28, as amended) is amended to read:

15 "9-16-12. CONSTRUCTION INDUSTRIES ADVISORY COMMISSION--
16 EXERCISE OF POWERS AND DUTIES EXEMPT FROM AUTHORITY OF
17 SUPERINTENDENT.--All responsibilities of the construction
18 industries advisory commission under [~~Sections~~] Section
19 60-13-6 [~~60-13-9 through 60-13-11, 60-13-13.2, 60-13-14~~
20 ~~through 60-13-16, 60-13-18, 60-13-23 through 60-13-24,~~
21 ~~60-13-27, 60-13-28, 60-13-36, 60-13-38, 60-13-41, 60-13-43,~~
22 ~~60-13-44, 60-13-45, 60-13-49, 60-13-53, 60-13-55, 60-13-57,~~
23 ~~61-1-1 through 61-1-33, 70-5-3 through 70-5-7, 70-5-11 through~~
24 ~~70-5-15 and 70-5-18]~~ NMSA 1978 are hereby explicitly exempted
25 from the authority of the superintendent under the provisions

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1 of Subsection B of Section 9-16-6 NMSA 1978. "

2 Section 3. Section 60-13-2 NMSA 1978 (being Laws 1967,
3 Chapter 199, Section 2, as amended) is amended to read:

4 "60-13-2. GENERAL DEFINITIONS. --As used in the
5 Construction Industries Licensing Act:

6 A. "division" means the construction industries
7 division of the regulation and licensing department;

8 B. "trade bureau" means the electrical bureau, the
9 mechanical bureau, the general construction bureau or the
10 liquefied petroleum gas bureau of the division;

11 C. "jurisdictional conflict" means ~~any~~ a
12 conflict between or among trade bureaus as to the exercise of
13 jurisdiction over an occupation or trade for which a license
14 is required under the provisions of the Construction
15 Industries Licensing Act;

16 D. "person" includes an individual, firm,
17 partnership, corporation, association or other organization,
18 or any combination thereof;

19 E. "qualifying party" means ~~any~~ an individual
20 who submits to the examination for a license to be issued
21 under the Construction Industries Licensing Act and who is
22 responsible for the licensee's compliance with the
23 requirements of that act and with the rules, regulations,
24 codes and standards adopted and promulgated in accordance with
25 that act;

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1 F. "certificate of qualification" means a
2 certificate issued by the division to a qualifying party;

3 G. "journeyman" means [~~any~~] an individual who is
4 properly certified by the electrical bureau or the mechanical
5 bureau, as required by law, to engage in or work at his trade;

6 H. "apprentice" means an individual who is
7 engaged, as his principal occupation, in learning and
8 assisting in a trade;

9 I. "wages" means compensation paid to an
10 individual by an employer from which taxes are required to be
11 withheld by federal and state law;

12 J. "public use" means the use or occupancy of
13 [~~any~~] a structure, facility or manufactured commercial unit to
14 which the general public, as distinguished from residents or
15 employees, has access;

16 K. "bid" means a written or oral offer to
17 contract;

18 L. "building" means [~~any~~] a structure built for
19 use or occupancy by persons or property, including but not
20 limited to manufactured commercial units and modular homes or
21 premanufactured homes designed to be placed on permanent
22 foundations whether mounted on skids or permanent foundations
23 or whether constructed on or off the site of location;

24 M. "inspection agency" means a firm, partnership,
25 corporation, association or any combination thereof approved

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1 in accordance with regulations as having the personnel and
2 equipment available to adequately inspect for the proper
3 construction of manufactured commercial units, modular homes
4 or premanufactured homes;

5 N. "director" means the administrative head of the
6 division;

7 O. "chief" means the administrative head of a
8 trade bureau;

9 P. "commission" means the construction industries
10 advisory commission;

11 Q. "manufactured commercial unit" means a movable
12 or portable housing structure over thirty-two feet in length
13 or over eight feet in width [~~which~~] that is constructed to be
14 towed on its own chassis and designed so as to be installed
15 without a permanent foundation for use as an office or other
16 commercial purpose and [~~which~~] that may include one or more
17 components that can be retracted for towing purposes and
18 subsequently expanded for additional capacity, or two or more
19 units separately towable but designed to be joined into one
20 integral unit, as well as a single unit, but which does not
21 include [~~any~~] a movable or portable housing structure over
22 twelve feet in width and forty feet in length [~~which~~] that is
23 used for nonresidential purposes. "Manufactured commercial
24 unit" does not include modular or premanufactured homes, built
25 to Uniform Building Code standards, designed to be permanently

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1 affixed to real property; and

2 R. "code" means a body or compilation of
3 provisions or standards [~~which~~] that govern contracting or
4 some aspect of contracting; [~~which~~] that provide for safety
5 and protection of life and health; [~~which~~] that are [~~approved~~]
6 published by a nationally recognized standards association;
7 and which standards are in general use in the United States or
8 in a clearly defined region of the United States. The term
9 "code" [~~includes the Uniform Building Code, the National~~
10 ~~Electrical Code, the Uniform Plumbing and Mechanical Code, the~~
11 ~~LP Gas Code and any other codes~~] means a code standard adopted
12 by the [~~commission~~] division."

13 Section 4. Section 60-13-3 NMSA 1978 (being Laws 1978,
14 Chapter 66, Section 1, as amended) is amended to read:

15 "60-13-3. DEFINITION--CONTRACTOR.--As used in the
16 Construction Industries Licensing Act, "contractor":

17 A. means [~~any~~] a person who undertakes, [~~offers to~~
18 ~~undertake by bid or other means or purports to have the~~
19 ~~capacity to undertake~~] by himself or through others,
20 contracting. Contracting includes constructing, altering,
21 repairing, installing or demolishing [~~any~~] a:

22 (1) road, highway, bridge, parking area or
23 related project;

24 (2) building, stadium or other structure;

25 (3) airport, subway or similar facility;

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1 (4) park, trail, bridle path, athletic field,
2 golf course or similar facility;

3 (5) dam, reservoir, canal, ditch or similar
4 facility;

5 (6) sewerage or water treatment facility,
6 power generating plant, pump station, natural gas compressing
7 station or similar facility;

8 (7) sewerage, water, gas or other pipeline;

9 (8) transmission line;

10 (9) radio, television or other tower;

11 (10) water, oil or other storage tank;

12 (11) shaft, tunnel or mining appurtenance;

13 (12) leveling or clearing land;

14 (13) excavating earth;

15 (14) air conditioning, conduit, heating or
16 other similar mechanical works;

17 (15) electrical wiring, plumbing or plumbing
18 fixture, consumers' gas piping, gas appliances or water
19 conditioners; or

20 (16) similar work, structures or
21 installations [~~which~~] that are covered by applicable codes
22 adopted [~~under~~] pursuant to the provisions of the Construction
23 Industries Licensing Act;

24 B. includes subcontractor and specialty
25 contractor;

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1 C. includes a construction manager who coordinates
2 and manages the building process; who is a member of the
3 construction team with the owner, architect, engineer and
4 other consultants required for the building project; and who
5 utilizes his skill and knowledge of general contracting to
6 develop schedules, prepare project construction estimates,
7 study labor conditions and advise concerning construction; and

8 D. does not include:

9 (1) ~~any~~ a person who merely furnishes
10 materials or supplies at the site without fabricating them
11 into, or consuming them in the performance of, the work of a
12 contractor;

13 (2) ~~any~~ a person who drills, completes,
14 tests, abandons or operates ~~any~~ a petroleum, gas or water
15 well; or services equipment and structures used in the
16 production and handling of any product incident to the
17 production of ~~any~~ petroleum, gas or water wells, excluding
18 any person performing duties normally performed by electrical,
19 mechanical or general contractors; or who performs geophysical
20 or similar exploration for oil, gas or water;

21 (3) a public utility or rural electric
22 cooperative that constructs, reconstructs, operates or
23 maintains its plant or renders authorized service by the
24 installation, alteration or repair of facilities, up to and
25 including the meters, which facilities are an integral part of

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1 the operational system of the public utility or rural electric
2 cooperative; provided that the construction of a building by a
3 public utility or rural electric cooperative or the
4 installation or repair of any consumer gas or electrical
5 appliance not an integral part of the operational system makes
6 a public utility or rural electric cooperative a contractor
7 for that purpose;

8 (4) a utility department of ~~[any]~~ a
9 municipality or local public body rendering authorized service
10 by the installation, alteration or repair of facilities, up to
11 and including the meters, which facilities are an integral
12 part of the operational system of the utility department of
13 the municipality;

14 (5) ~~[any]~~ a railroad company;

15 (6) a telephone or telegraph company or rural
16 electric cooperative that installs, alters or repairs
17 electrical equipment and devices for the operation of signals
18 or the transmission of intelligence where that work is an
19 integral part of the operation of a communication system owned
20 and operated by a telephone or telegraph company or rural
21 electric cooperative in rendering authorized service;

22 (7) a pipeline company that installs, alters
23 or repairs electrical equipment and devices for the operation
24 of signals or the transmission of intelligence where that
25 service is an integral part of the operation of the

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1 communication system of that pipeline company and is not for
2 hire or for the use of the general public, or [~~any~~] a pipeline
3 company [~~which~~] that installs, alters or repairs plumbing
4 fixtures or gas piping where the work is an integral part of
5 installing and operating the system owned or operated by the
6 pipeline company in rendering its authorized service;

7 (8) [~~any~~] a mining company, gas company or
8 oil company that installs, alters or repairs its facilities,
9 including plumbing fixtures or gas piping, where the work is
10 an integral part of the installing or operating of a system
11 owned or operated by the mining company, gas company or oil
12 company; provided the construction of a building by a mining
13 company, a gas company or an oil company is required to be
14 done in conformity with all other provisions of the
15 Construction Industries Licensing Act and with orders, rules,
16 [~~regulations~~] standards and codes adopted pursuant to that
17 act;

18 (9) a radio or television broadcaster who
19 installs, alters or repairs electrical equipment used for
20 radio or television broadcasting;

21 (10) an individual who, by himself or with
22 the aid of others who are paid wages and who receive no other
23 form of compensation, builds or makes installations,
24 alterations or repairs in or to a single-family dwelling owned
25 and occupied or to be occupied by him; provided that the

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1 installation, building, alteration or repair is required to be
2 done in conformity with all other provisions of the
3 Construction Industries Licensing Act and with the orders,
4 rules, ~~[regulations]~~ standards and codes adopted pursuant to
5 that act;

6 (11) a person who acts on his own account to
7 build or improve a single-family residence for his personal
8 use, including the building or improvement of a free-standing
9 storage building located on that residential property;
10 provided that the construction or improvement is required to
11 be done in conformity with all other provisions of the
12 Construction Industries Licensing Act and with the orders,
13 rules, ~~[regulations]~~ standards and codes adopted pursuant to
14 that act; and provided further that he does not engage in
15 commercial construction;

16 (12) a person who, by himself or with the aid
17 of others who are paid wages and receive no other form of
18 compensation, builds or makes installations, repairs or
19 alterations in or to a building or other improvement on a farm
20 or ranch owned, occupied or operated by him, or makes
21 installations of electrical wiring ~~[that are not to be~~
22 ~~connected to electrical energy supplied from a power source~~
23 ~~outside the premises of the farm or ranch owned, occupied or~~
24 ~~operated by him; provided that the state codes and any local~~
25 ~~codes adopted pursuant to Subsection F of Section 60-13-44~~

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1 ~~NMSA 1978 shall not require any permits or inspections for~~
2 ~~such construction on a farm or ranch except for electrical~~
3 ~~wiring to be connected to a power source outside the~~
4 ~~premises];~~

5 (13) an individual who works only for wages;

6 (14) an individual who works on one
7 undertaking or project at a time that, in the aggregate or
8 singly, does not exceed seven thousand two hundred dollars
9 (\$7,200) compensation a year, the work being casual, minor or
10 inconsequential, such as handyman repairs; provided that this
11 exemption shall not apply to any undertaking or project
12 pertaining to the installation, connection or repair of
13 electrical wiring, plumbing or gas fitting as defined in
14 Section 60-13-32 NMSA 1978 and provided:

15 (a) the work is not part of a larger or
16 major operation undertaken by the same individual or different
17 contractor;

18 (b) the individual does not advertise
19 or maintain a sign, card or other device [~~which~~] that would
20 indicate to the public that he is qualified to engage in the
21 business of contracting; and

22 (c) the individual files annually with
23 the division, on a form prescribed by the division, a
24 declaration substantially to the effect that he is not a
25 contractor within the meaning of the Construction Industries

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1 Licensing Act, that the work he performs is casual, minor or
2 inconsequential and will not include more than one undertaking
3 or project at one time and that the total amount of such
4 contracts, in the aggregate or singly, will not exceed seven
5 thousand two hundred dollars (\$7,200) compensation a year;

6 (15) ~~any~~ a person, firm or corporation that
7 installs fuel containers, appliances, furnaces and other
8 appurtenant apparatus as an incident to its primary business
9 of distributing liquefied petroleum fuel;

10 (16) a cable television or community antenna
11 television company that constructs, installs, alters or
12 repairs facilities, equipment, cables or lines for the
13 provision of television service or the carriage and
14 transmission of television or radio broadcast signals;

15 (17) ~~any~~ a weatherization project not
16 exceeding two thousand dollars (\$2,000) that has been approved
17 and is administered by a federal or state agency; ~~or~~

18 (18) a person who performs work consisting of
19 short-term depreciable improvements to commercial property to
20 provide needed repairs and maintenance ~~[for items not covered~~
21 ~~by building codes adopted by the construction industry~~
22 commission], such as painting, carpeting, flooring, weather-
23 proofing, insulating and structural patching and the
24 construction, repair and maintenance of nonstructural porches
25 or awnings and similar items if the total amount paid the

1 person for the work on a single undertaking, including
2 materials, services and wages of those who work for him, does
3 not exceed the sum of five thousand dollars (\$5,000); or
4 (19) a person who offers to undertake
5 contracting by bid. "

6 Section 5. Section 60-13-6 NMSA 1978 (being Laws 1977,
7 Chapter 245, Section 168, as amended) is amended to read:

8 "60-13-6. CONSTRUCTION INDUSTRIES ADVISORY COMMISSION
9 CREATED-- MEMBERSHIP-- DUTIES. --

10 A. There is created within the division the
11 "construction industries advisory commission". The commission
12 shall be composed of nine voting members who shall serve at
13 the pleasure of the governor. Members shall be appointed by
14 the governor, with the advice and consent of the senate as
15 follows:

16 (1) one member who is a representative of the
17 residential construction industry of this state;

18 (2) one member who is a licensed electrical
19 contractor;

20 (3) one member who is a licensed mechanical
21 contractor;

22 (4) one member who is a licensed and
23 practicing architect;

24 (5) one member who is a practicing general
25 contractor;

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1 (6) one member who is a representative of the
2 liquefied petroleum gas industry;

3 (7) one resident of the state who is not a
4 licensed contractor or certified journeyman who shall
5 represent the people of New Mexico;

6 (8) one member who is a representative of the
7 subcontracting industry of the state; and

8 (9) one member who is a representative of
9 organized labor.

10 Members shall be appointed to provide adequate representation
11 of all geographic areas of the state.

12 B. Each member of the commission shall receive per
13 diem and mileage as provided in the Per Diem and Mileage Act
14 and shall receive no other compensation, perquisite or
15 allowance.

16 C. The commission shall annually elect a chairman
17 and vice chairman from its membership. The director shall
18 serve as the executive secretary of the commission.

19 D. The commission shall meet bimonthly or at the
20 call of the chairman.

21 E. The commission shall [~~establish~~] recommend
22 policy for the division. It shall [~~advise~~] make
23 recommendations on [~~review, coordinate and approve or~~
24 ~~disapprove all~~] rules, regulations, standards, codes and
25 licensing requirements [~~which~~] that are subject to the

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1 approval of the [~~commission~~] division under the provisions of
2 the Construction Industries Licensing Act or the LPG and CNG
3 Act [~~so as to insure that uniform codes and standards are~~
4 ~~promulgated and conflicting provisions are avoided.~~ The
5 ~~commission shall:~~

6 (1) ~~revoke or suspend, for cause, any license~~
7 ~~or certificate of qualification issued under the provisions of~~
8 ~~the Construction Industries Licensing Act or the LPG Act; and~~

9 (2) ~~define and establish all license~~
10 ~~classifications. The licensee shall be limited in his bidding~~
11 ~~and contracting as provided in Subsection B of Section~~
12 ~~60-13-12 NMSA 1978. Any licensee, subsequent to the issuance~~
13 ~~of a license, may make application for additional~~
14 ~~classification and be licensed in more than one classification~~
15 ~~if he meets the prescribed qualification for the additional~~
16 ~~classification]. "~~

17 Section 6. Section 60-13-9 NMSA 1978 (being Laws 1978,
18 Chapter 73, Section 1, as amended) is amended to read:

19 "60-13-9. DIVISION--DUTIES.--The division shall:

20 A. approve and adopt examinations on codes and
21 standards, business knowledge and division rules [~~and~~
22 ~~regulations~~] and on the Construction Industries Licensing Act
23 [~~recommended by the commission for all classifications of~~
24 ~~contractor's licenses~~];

25 B. issue, under the director's signature,

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1 contractor's licenses and certificates of qualification in
2 accordance with the provisions of the Construction Industries
3 Licensing Act;

4 ~~[C. submit a list of all contractor's licenses and~~
5 ~~certificates of qualification issued by the division to the~~
6 ~~commission for review and approval;]~~

7 C. revoke or suspend for cause any license or
8 certificate of qualification issued under the provisions of
9 the Construction Industries Licensing Act or the LPG and CNG
10 Act;

11 D. define and establish all license
12 classifications. The licensee shall be limited in his bidding
13 and contracting as provided in Section 60-13-12 NMSA 1978.
14 Any licensee, subsequent to the issuance of a license, may
15 make application for additional classification and be licensed
16 in more than one classification if he meets the prescribed
17 qualification for the additional classification;

18 ~~[D.]~~ E. resolve jurisdictional conflicts by
19 assigning specific responsibility to the appropriate bureau
20 for preparing examinations and for certifying and inspecting
21 each occupation, trade or activity covered by the Construction
22 Industries Licensing Act;

23 ~~[E.]~~ F. establish and collect fees authorized to
24 be collected by the division pursuant to the Construction
25 Industries Licensing Act;

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1 ~~[F-]~~ G. approve and adopt all building codes and
2 minimum standards [~~as~~] recommended by the trade bureaus [~~and~~
3 ~~approved by the commission~~] as necessary so that the public
4 welfare is protected, uniformity is promoted and conflicting
5 provisions are avoided;

6 ~~[G-]~~ H. with approval of the superintendent of
7 regulation and licensing, employ such personnel as the
8 division deems necessary for the exclusive purpose of
9 investigating violations of the Construction Industries
10 Licensing Act, enforcing Sections 60-13-12 and 60-13-38 NMSA
11 1978 and instituting legal action in the name of the division
12 to accomplish the provisions of Section 60-13-52 NMSA 1978;

13 ~~[H-]~~ I. approve, disapprove or revise the
14 recommended budget of each trade bureau and submit the budgets
15 of those bureaus, along with its own budget, to the regulation
16 and licensing department;

17 ~~[I-]~~ J. approve, disapprove or revise and submit to
18 the regulation and licensing department all requests of the
19 trade bureaus for emergency budget transfers;

20 ~~[J-]~~ K. make an annual report to the superintendent
21 of regulation and licensing and develop a policy manual
22 concerning the operations of the division and the trade
23 bureaus. The report shall also contain the division's
24 recommendations for legislation it deems necessary to improve
25 the licensing and technical practices of the construction and

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1 LP gas industries and to protect persons, property and
2 agencies of the state and its political subdivisions;

3 ~~[K.]~~ L. adopt ~~[subject to commission approval]~~ rules
4 ~~[and regulations]~~ necessary to carry out the provisions of the
5 Construction Industries Licensing Act and the LPG and CNG Act;

6 ~~[L.]~~ M. maintain a complete record of all
7 applications; all licenses issued, renewed, canceled, revoked
8 and suspended; and all fines and penalties imposed by the
9 division ~~[or commission]~~ and may make that information
10 available to certified code jurisdictions;

11 ~~[M.]~~ N. furnish, upon payment of a reasonable fee
12 established by the division, a certified copy of any license
13 issued or of the record of the official revocation or
14 suspension thereof. Such certified copy shall be prima facie
15 evidence of the facts stated therein; and

16 ~~[N.]~~ O. publish a list of contractors, with their
17 addresses and classifications, licensed by the division. The
18 list shall be furnished without charge to such public
19 officials, public bodies or public works and building
20 departments as the division deems advisable. The list shall
21 be published annually, and supplements shall be provided as
22 the division deems necessary. Copies of the list and
23 supplements shall be furnished to any person upon request and
24 payment of a reasonable fee established by the division. "

25 Section 7. Section 60-13-10 NMSA 1978 (being Laws 1975,

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1 Chapter 14, Section 3, as amended) is amended to read:

2 "60-13-10. ADDITIONAL DIVISION DUTIES-- FLOOD OR MUDSLIDE
3 AREAS-- STANDARDS. -- In addition to the division's other duties,
4 on or before January 1, 1976 the division shall [~~with the~~
5 ~~approval of the commission~~] issue regulations prescribing
6 standards for the installation or use of electrical wiring,
7 the installation of fixtures, plumbing, consumers' gas pipe
8 and appliances and materials installed in the course of
9 mechanical installation and the construction, alteration or
10 repair of all buildings, improvements, modular homes,
11 premanufactured homes and manufactured commercial units
12 intended for use in flood or mudslide areas designated
13 pursuant to Section 3-18-7 NMSA 1978. Such regulations shall
14 give due regard to standards prescribed by the federal
15 insurance administration pursuant to Regulation 1910,
16 Subsection 7(d), 79 Stat. 670, Section 1361, 82 Stat. 587 and
17 82 Stat. 575, all as amended, and shall give due regard to
18 physical, climatic and other conditions peculiar to New
19 Mexico. "

20 Section 8. Section 60-13-10.1 NMSA 1978 (being Laws
21 1981, Chapter 245, Section 1, as amended) is amended to read:

22 "60-13-10.1. DIVISION-- ADDITIONAL DUTIES-- ALCOHOL FUEL
23 PLANT CONSTRUCTION CODE-- RULES AND REGULATIONS. --

24 A. In addition to the division's other duties, on or
25 before January 1, 1982 it shall, [~~with the approval of the~~

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1 ~~commission and~~] after public hearing, adopt an alcohol fuel
2 plant construction code. The code shall set forth reasonable
3 standards and requirements for the construction, alteration or
4 repair of buildings and other structures to be used for the
5 manufacture or distillation of alcohol fuel. In adopting the
6 code, the division shall give due regard to the purpose for
7 which the plant is to be used and to the physical, climatic
8 and other conditions peculiar to New Mexico.

9 B. Upon the adoption of the code, the [~~commission~~]
10 division shall make rules [~~and regulations~~] pertaining to the
11 issuance of a permit prior to any construction, installation,
12 alteration, repair or addition to or within any building or
13 structure proposed for the use of manufacturing or
14 distillation of alcohol fuel. The [~~commission~~] division shall
15 also set a reasonable fee for the issuance of a permit.

16 C. No permit shall be required of any person who, by
17 himself or with the aid of others who are paid wages and
18 receive no other form of compensation, builds or makes
19 installation, repairs or alterations on a farm or ranch owned,
20 occupied or operated by him to any building or structure for
21 the use of manufacturing or distillation of alcohol fuel."

22 Section 9. Section 60-13-11 NMSA 1978 (being Laws 1967,
23 Chapter 199, Section 14, as amended) is amended to read:

24 "60-13-11. DIVISION [~~OR COMMISSION~~] -- POWERS. -- The
25 division [~~or the commission~~] may:

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1 A. sue and be sued, issue subpoenas and compel the
2 attendance of witnesses and the production of documents,
3 records and physical exhibits in any hearing;

4 B. administer oaths;

5 C. adopt and use a seal for authentication of its
6 records, processes and proceedings;

7 D. compel minimum code compliance in all certified
8 code jurisdictions and political subdivisions; and

9 E. investigate code violations in any code
10 jurisdictions in New Mexico. "

11 Section 10. Section 60-13-12 NMSA 1978 (being Laws 1967,
12 Chapter 199, Section 15, as amended) is amended to read:

13 "60-13-12. CONTRACTOR'S LICENSE REQUIRED. --

14 A. No person shall act as a contractor without a
15 license issued by the division classified to cover the type of
16 work to be undertaken.

17 B. ~~[No bid on a contract shall be submitted unless~~
18 ~~the contractor has a valid license issued by the division to~~
19 ~~bid and perform the type of work to be undertaken; provided~~
20 ~~this subsection shall not prohibit]~~ A licensed contractor
21 ~~[from bidding or contracting]~~ may bid or contract for work
22 involving the use of two or more trades, crafts or
23 classifications if the performance of the work in the trades,
24 crafts or classifications other than the one in which he is
25 licensed or in which he becomes licensed before commencing to

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1 perform the work bid is incidental or supplemental to the
2 performance of the work in the trades, crafts or
3 classifications for which he is licensed or becomes licensed
4 before commencing to perform the work bid; and further
5 provided that work coming under the jurisdiction of the
6 mechanical bureau or the electrical bureau of the division
7 [~~must~~] shall be performed by a contractor licensed to perform
8 that work.

9 ~~[C. Any contractor may bid on a New Mexico highway~~
10 ~~project involving the expenditure of federal funds prior to~~
11 ~~making application to the division for a license. The~~
12 ~~contractor, if he has not previously been issued a license,~~
13 ~~shall upon becoming the apparent successful bidder apply to~~
14 ~~the division for a license. The director shall issue a~~
15 ~~license to the contractor in accordance with the provisions of~~
16 ~~the Construction Industries Licensing Act]. "~~

17 Section 11. Section 60-13-13 NMSA 1978 (being Laws 1967,
18 Chapter 199, Section 16, as amended) is amended to read:

19 "60-13-13. APPLICATION FOR CONTRACTOR'S LICENSE. --

20 A. Applications for a contractor's license or a
21 certificate of qualification shall be submitted to the
22 division on forms prescribed and furnished by the division and
23 shall contain the information and be accompanied by the
24 attachments required by [~~regulation~~] rule of the [~~commission~~]
25 division.

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1 B. The application shall be accompanied by the
2 prescribed fee. "

3 Section 12. Section 60-13-13.2 NMSA 1978 (being Laws
4 1983, Chapter 105, Section 6, as amended) is amended to read:

5 "60-13-13.2. LICENSEES--IDENTICAL OR SIMILAR NAMES.--The
6 division shall not accept an application, shall not issue a
7 license and shall require a change in the name of a proposed
8 license if the proposed name is identical to or in the opinion
9 of the director so similar that it may cause confusion with a
10 name on a pending application or an existing license. Any
11 person aggrieved by the decision of the director may appeal
12 the decision to the [~~commission~~] superintendent of regulation
13 and licensing. "

14 Section 13. Section 60-13-14 NMSA 1978 (being Laws 1967,
15 Chapter 199, Section 17, as amended) is amended to read:

16 "60-13-14. DIVISION--LICENSE ISSUANCE--REPORTS.--

17 A. No license shall be issued by the division to any
18 applicant unless the director is satisfied that the applicant
19 is or has in his employ a qualifying party who is qualified
20 for the classification for which application is made and the
21 applicant has satisfied the requirements of Subsection B of
22 this section.

23 B. An applicant for a license shall:

24 (1) demonstrate proof of responsibility as
25 provided in the Construction Industries Licensing Act;

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1 (2) comply with the provisions of Subsection D
2 of this section if he has engaged illegally in the contracting
3 business in New Mexico within one year prior to making
4 application;

5 (3) demonstrate familiarity with the rules [~~and~~
6 ~~regulations~~] promulgated by the [~~commission and~~] division
7 concerning the classification for which application is made;

8 (4) if a corporation, incorporated association,
9 registered limited liability partnership or limited liability
10 company, have complied with the laws of this state requiring
11 qualification to do business in New Mexico and provide the
12 name of its current registered agent and the current address
13 of its registered office in New Mexico;

14 (5) if a person other than the persons
15 described in Paragraph (4) of this subsection, provide a
16 current physical location address and mailing address of the
17 applicant's place of business;

18 (6) submit proof of registration with the
19 taxation and revenue department and submit a current
20 identification tax number;

21 (7) comply with any additional procedures and
22 rules [~~and regulations which~~] that are established by the
23 [~~commission~~] division relating to issuance of licenses; and

24 (8) have had four years, within the ten years
25 immediately prior to application, of practical or related

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1 trade experience dealing specifically with the type of
2 construction or its equivalent for which the applicant is
3 applying for a license, except that the ~~[commission]~~ division
4 may by ~~[regulation]~~ rule provide for:

5 (a) reducing this requirement for a
6 particular industry or craft where it is deemed excessive, but
7 the requirement shall not be less than two years; and

8 (b) a waiver of the work experience
9 requirement of this paragraph when the qualifying party has
10 been certified in New Mexico with the same license
11 classification within the ten years immediately prior to
12 application.

13 C. The division ~~[with the consent of the commission]~~
14 may enter into a reciprocal licensing agreement with any state
15 having equivalent licensing requirements.

16 D. The director may issue a license to an applicant
17 who at any time within one year prior to making application
18 has acted as a contractor in New Mexico without a license as
19 required by the Construction Industries Licensing Act if:

20 (1) the applicant in addition to all other
21 requirements for licensure pays an additional fee ~~[as follows:~~

22 (a)] in an amount up to ten percent of
23 the contract price or the value of the nonlicensed contracted
24 work in the discretion of the ~~[commission; or~~

25 (b) ~~if the applicant has bid or offered~~

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1 ~~a price on a construction project and was not the successful~~
2 ~~bidder or offeror, the fee shall be at least one percent but~~
3 ~~not more than five percent of the total bid amount]~~ division;
4 and

5 (2) the director is satisfied that no
6 incident of such contracting without a license:

7 (a) caused monetary damage to any
8 person; or

9 (b) resulted in an unresolved consumer
10 complaint being filed against the applicant with the division.

11 E. An unlicensed contractor who has performed
12 unlicensed work may settle the claims against him without
13 becoming licensed if the claims arise from his first offense
14 and he pays an administrative fee calculated pursuant to
15 Paragraph (1) of Subsection D of this section. In addition to
16 the administrative fee, an additional ten percent of the
17 amount of the administrative fee shall be assessed as a
18 service fee.

19 F. If the total fee to be paid by the contractor
20 pursuant to the provisions of Subsection D or E of this
21 section is twenty-five dollars (\$25.00) or less, the fee may
22 be waived.

23 G. The director shall report every incident of
24 nonlicensed contracting work to the taxation and revenue
25 department to assure that the contractor complies with tax

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1 requirements and pays all taxes due. "

2 Section 14. Section 60-13-15 NMSA 1978 (being Laws 1977,
3 Chapter 245, Section 177, as amended) is amended to read:

4 "60-13-15. LICENSE ISSUANCE. -- [~~COMMISSION REVIEW~~---

5 A. ~~The commission shall review at its regular~~
6 ~~meetings all licenses issued by the division. The commission~~
7 ~~shall report to the superintendent of regulation and licensing~~
8 ~~and the attorney general any license issued to an applicant~~
9 ~~who fails to meet the requirements established by law and~~
10 ~~commission regulations for license issuance.~~

11 B.] The signing of a license by the director for
12 issuance by the division to an applicant who fails to meet the
13 requirements established by law or [~~committee regulations~~]
14 division rules for issuance of licenses is a misdemeanor, and
15 the director, if convicted by a court of law, shall be
16 relieved of his duties and shall be subject to civil damages
17 as provided in Section 30-23-7 NMSA 1978. [~~Failure by the~~
18 ~~committee or any member of the committee to report the illegal~~
19 ~~issuance of a license is a petty misdemeanor and upon~~
20 ~~conviction shall result in termination of the appointment of~~
21 ~~the committee member so convicted.] "~~

22 Section 15. Section 60-13-16 NMSA 1978 (being Laws 1967,
23 Chapter 199, Section 18, as amended) is amended to read:

24 "60-13-16. DIVISION--QUALIFYING PARTY--EXAMINATION--
25 CERTIFICATE. --

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1 A. Except as otherwise provided in this section,
2 no certificate of qualification shall be issued to an
3 individual desiring to be a qualifying party until he has
4 passed [~~with a satisfactory score~~] an examination approved and
5 adopted by the division.

6 B. The examination shall consist of a test based
7 on general business knowledge and rules [~~and regulations~~] of
8 the division and the provisions of the Construction Industries
9 Licensing Act. In addition, applicants for a GB, MM or EE
10 classification or for any other classification that the
11 [~~commission~~] division determines to be appropriate shall take
12 a test based on technical knowledge and familiarity with the
13 prescribed codes and minimum standards of the particular
14 classification for which certification is requested. The
15 division shall provide examinations in both English and
16 Spanish.

17 C. In lieu of the examination to determine
18 knowledge of business and construction industries law provided
19 for in Subsection B of this section, an applicant ~~may~~ satisfy
20 the business and law knowledge requirement by receiving a
21 certificate of ~~completion~~ of a business and law course of
22 study offered by an accredited education institute approved by
23 the [~~commission~~] division. The course and any preparation and
24 instruction materials shall be available in both English and
25 Spanish and shall be made available to the division [~~the~~

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1 ~~commission~~] or the designated agent of the division, upon
2 request, for review.

3 D. If a contractor's license is subject to
4 suspension by the [~~commission~~] division and if the suspension
5 is based on the requirement that the licensee employ a
6 qualifying party and the employment of the qualifying party is
7 terminated without fault of the licensee, a member of that
8 trade who is experienced in the classification for which the
9 certificate of qualification was issued and has been employed
10 for five or more years by the licensed contractor shall be
11 issued without examination a temporary certificate of
12 qualification in the classification for which the contractor
13 is licensed. The temporary qualifying party is required to
14 pass the regular examination as set forth in Subsection B of
15 this section within ninety days of issuance of a temporary
16 certificate of qualification.

17 E. The certificate of qualification is not
18 transferable.

19 F. A qualifying party whose certificate is revoked
20 by the [~~commission~~] division shall not reapply for a
21 certificate for one year. "

22 Section 16. Section 60-13-18 NMSA 1978 (being Laws 1967,
23 Chapter 199, Section 20, as amended) is amended to read:

24 "60-13-18. LICENSES--RENEWAL.--

25 A. [~~Licenses~~] A license issued by the division

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1 ~~[are]~~ is not transferable.

2 B. A contractor's ~~[licenses]~~ license shall expire
3 two years after the issuance date or as determined by the
4 division, but in no instance less than one year, and shall be
5 renewable upon application to the division and payment of the
6 prescribed renewal fee; provided that nothing in this
7 subsection shall prohibit the division from establishing a
8 staggered system of license expiration and a procedure for
9 proration of fees for licenses issued for less than the two-
10 year period or other period provided by the division pursuant
11 to this subsection.

12 C. ~~[Licenses]~~ A license shall expire upon the date
13 established by ~~[regulation of the commission]~~ rules of the
14 division, and such ~~[regulation to]~~ rules shall provide for a
15 staggered system of license expiration and for proration of
16 fees for ~~[licenses]~~ a license issued for less than a full
17 year. Thereafter, ~~[such licenses]~~ a license shall be issued
18 for a period of two years or as otherwise provided by the
19 division pursuant to Subsection B of this section. ~~[Licenses]~~
20 A license shall be subject to renewal upon application to the
21 division and payment of the prescribed renewal fee.

22 D. The director shall, at least thirty days prior
23 to the expiration date of a license, notify the licensee of
24 the approaching expiration. Notice shall be given by mail
25 addressed to the licensee's last address on file with the

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1 division. The notice shall include a renewal application
2 form, instructions and any other information prescribed by the
3 division.

4 E. Failure of a licensee to make application for
5 the renewal of his license, to furnish such other information
6 required by the [~~commission~~] division and to pay the
7 prescribed renewal fee by the last working day prior to the
8 expiration of the license shall cause the license to be
9 suspended by operation of law. [~~F. Unless the license is~~
10 ~~renewed within a three month period, it shall be canceled.~~]
11 The suspended license may be renewed only after payment of a
12 fee equal to one dollar (\$1.00) for each day, up to thirty
13 days, that has elapsed since the expiration date of the
14 license and thereafter for a fee equal to twice the amount of
15 the renewal fee.

16 F. Unless the license is renewed within a three-
17 month period, it shall be canceled."

18 Section 17. Section 60-13-19 NMSA 1978 (being Laws 1978,
19 Chapter 78, Section 1, as amended) is amended to read:

20 "60-13-19. DIVISION--EVIDENCE OF POSSESSION--PENALTY.--

21 A. Prior to performing work as a contractor, a
22 person must obtain a license and certificate of competence if
23 applicable, pursuant to the Construction Industries Licensing
24 Act and the rules adopted pursuant to that act. Such license
25 and certificate must be current and free of restrictions or

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1 encumbrances. No person may perform contracting work, or act
2 as a contractor, unless he is in full compliance with the
3 requirements of this section. Failure to comply with the
4 requirements of this section constitutes the act of unlicensed
5 contracting as provided in Section 60-13-52 NMSA 1978.

6 [A.—The] B. A licensee shall exhibit satisfactory
7 evidence of the possession of a license on demand and shall
8 clearly indicate his contractor's license number [~~on all~~
9 ~~written bids and~~] when applying for a building permit. Before
10 work is commenced, a contract is signed or funds are paid for
11 [any] residential contracting, the contractor shall disclose
12 in writing to the owner that the license issued under the
13 Construction Industries Licensing Act does not protect the
14 consumer if the contractor defaults.

15 [B.—Any] C. A contractor who fails to indicate his
16 contractor's license number clearly [~~on all written bids and~~]
17 when applying for a building permit or who fails to make the
18 disclosure statement required [~~under this section~~] pursuant to
19 Subsection B of this section shall be assessed by the division
20 a penalty fee of one hundred fifty dollars (\$150). The fee
21 shall be payable to the code jurisdiction or political
22 subdivision [which] that issued the permit [~~or in which the~~
23 ~~work for which the bid is submitted is or would be~~
24 ~~permitted~~]. "

25 Section 18. Section 60-13-23 NMSA 1978 (being Laws 1967,

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1 Chapter 199, Section 26, as amended) is amended to read:

2 "60-13-23. REVOCATION OR SUSPENSION OF LICENSE BY THE
3 [~~COMMISSION~~] DIVISION--CAUSES.--~~[Any]~~ A license issued by the
4 division shall be revoked or suspended by the [~~commission for~~
5 ~~any of the following causes:~~

6 ~~A.]~~ division if the licensee or qualifying party of
7 the licensee:

8 A. willfully or by reason of incompetence violates
9 any provision of the Construction Industries Licensing Act or
10 any rule or regulation adopted pursuant to that act by the
11 division;

12 B. knowingly [~~contracting or performing~~] contracts
13 or performs a service beyond the scope of the license;

14 C. [~~misrepresentation of~~] misrepresents a material
15 fact [~~by the applicant~~] in obtaining a license;

16 D. [~~failure~~] fails to maintain proof of
17 responsibility as required by the Construction Industries
18 Licensing Act;

19 E. [~~unjustified abandonment of any~~] without
20 justification abandons a contract as determined by a court of
21 competent jurisdiction;

22 F. [~~conversion of~~] converts funds or property
23 received for prosecution or completion of a specific contract
24 or for a specified purpose in the prosecution or completion of
25 any contract, obligation or purpose, as determined by a court

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1 of competent jurisdiction;

2 G. ~~[departure]~~ departs from or ~~[disregard of]~~
3 disregards plans or specifications that result in a code
4 ~~[violations]~~ violation;

5 H. ~~[willful or fraudulent commission of any]~~
6 willfully or fraudulently commits an act ~~[by the licensee]~~ as
7 a contractor in consequence of which another is substantially
8 injured, as determined by a court of competent jurisdiction;

9 I. ~~[failure]~~ fails to maintain workers' compensation
10 insurance as required by the Workers' Compensation Act;

11 J. ~~[aiding, abetting, combining or conspiring]~~ aids,
12 abets, combines or conspires with a person to evade or violate
13 the provisions of the Construction Industries Licensing Act by
14 allowing a contractor's license to be used by an unlicensed
15 person or acting as agent, partner, associate or otherwise in
16 connection with an unlicensed person, with the intent to evade
17 the provisions of the Construction Industries Licensing Act;
18 or

19 K. ~~[acting]~~ acts in the capacity of a licensee under
20 any other name than is set forth upon the license. "

21 Section 19. Section 60-13-23.1 NMSA 1978 (being Laws
22 1987, Chapter 283, Section 6, as amended) is amended to read:

23 "60-13-23.1. ADMINISTRATIVE PENALTY. --

24 A. Notwithstanding any provisions of the Uniform
25 Licensing Act or the Construction Industries Licensing Act to

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1 the contrary, the [~~commission~~] division may, in addition to or
2 instead of revocation or suspension of a license issued by the
3 division for any cause specified in the Construction
4 Industries Licensing Act, assess the licensee an
5 administrative penalty in the following amounts:

6 (1) where the dollar value of the contract or
7 work performed is five thousand dollars (\$5,000) or less, the
8 penalty shall be not less than three hundred dollars (\$300) or
9 more than five hundred dollars (\$500); or

10 (2) where the dollar value of the contract or
11 work performed is more than five thousand dollars (\$5,000),
12 the penalty shall be in an amount equal to not more than ten
13 percent of the dollar amount of the contract or work performed
14 but not less than five hundred dollars (\$500).

15 B. If a person subject to the penalties under
16 Subsection A of this section previously has had his
17 contractor's license suspended or revoked or has been assessed
18 an administrative penalty pursuant to Subsection A of this
19 section, that person shall be assessed twice the amount
20 specified in Paragraph (1) or (2) of Subsection A of this
21 section, as applicable.

22 C. Failure to pay an administrative penalty upon the
23 date set by the [~~commission~~] division shall subject the
24 offender to an additional penalty of one hundred dollars
25 (\$100) for each day the offender fails to comply with the

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1 order. The attorney general shall institute an action in the
2 district court to recover the appropriate penalties."

3 Section 20. Section 60-13-24 NMSA 1978 (being Laws 1967,
4 Chapter 199, Section 27, as amended) is amended to read:

5 "60-13-24. CERTIFICATES OF QUALIFICATION-- CAUSES FOR
6 REVOCATION OR SUSPENSION. --Any certificate of qualification
7 shall be revoked or suspended by the [~~commission~~] division for
8 the following [~~causes~~]:

9 A. misrepresentation of a material fact by the
10 individual in obtaining the certificate;

11 B. violation, willfully or by reason of
12 incompetence, of any provision of the Construction Industries
13 Licensing Act or any code, minimum standard, rule or
14 regulation adopted pursuant to that act; or

15 C. aiding, abetting, combining or conspiring with a
16 person to evade or violate the provisions of the Construction
17 Industries Licensing Act or any code, minimum standard, rule
18 or regulation adopted pursuant to that act."

19 Section 21. Section 60-13-27 NMSA 1978 (being Laws 1967,
20 Chapter 199, Section 30, as amended) is amended to read:

21 "60-13-27. COMPLAINTS AGAINST LICENSEES AND CERTIFICATE
22 HOLDERS-- INVESTIGATIONS BY DIVISION-- INFORMAL RESOLUTION--
23 NOTICE OF REVOCATION ACTION. --

24 A. The division on its own motion or upon the
25 verified complaint in writing of [~~any~~] a person shall

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1 investigate the actions of [~~any~~] a licensee or certificate
2 holder. The director ~~may~~ assign one or ~~more~~ inspectors
3 certified pursuant to Section 60-13-41 NMSA 1978,
4 investigators or other personnel to investigate that licensee
5 or certificate holder or any activity within the jurisdiction
6 of the Construction Industries Licensing Act. The director
7 ~~may~~ authorize an inspector or investigator to enter any code
8 jurisdiction to ~~make~~ investigations. The investigation shall
9 be for the purpose of determining if there has been a code
10 violation or other breach of Section 60-13-23, 60-13-24 or
11 60-13-36 NMSA 1978 on the part of a licensee or certificate
12 holder constituting probable grounds for revocation or
13 suspension of his license or certificate.

14 B. The person assigned by the director shall ~~make~~ an
15 ~~immediate~~ investigation, securing all pertinent facts and
16 statements, including a statement from the contractor if he is
17 available, and names and addresses of witnesses. Within one
18 hundred eighty days of receipt of the complaint by the
19 division, [~~he~~] the person assigned shall ~~make~~ a full and
20 complete written report to the director.

21 C. Complaints ~~may~~ be resolved informally at the
22 request of the complainant, the contractor or the [~~commission~~]
23 division. For informal resolution of a complaint, all parties
24 [~~must~~] shall agree to the informal hearing and agree that the
25 decision of the informal hearing officer is final. The

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1 procedures for informal hearings and resolution of complaints
2 shall be established by the [~~commission~~] division.

3 D. [~~All~~] A revocation and suspension [~~proceedings~~]
4 proceeding conducted by the [~~commission~~] division and judicial
5 review of the [~~commission's~~] division's decision shall be
6 governed by the provisions of the Uniform Licensing Act.
7 Prior to [~~any~~] a revocation action by the [~~commission~~]
8 division, notice of the pending action shall be given to the
9 bonding company [~~which~~] that has in effect for the licensee
10 any bond issued pursuant to the proof of responsibility
11 provisions of the Construction Industries Licensing Act. "

12 Section 22. Section 60-13-28 NMSA 1978 (being Laws 1967,
13 Chapter 199, Section 31, as amended) is amended to read:

14 "60-13-28. SUSPENSION PERIOD. --

15 A. The [~~commission~~] division shall make all
16 suspensions for a definite period not exceeding ninety
17 consecutive days. Suspension of a license for any cause
18 specified in the Construction Industries Licensing Act shall
19 not preclude revocation of that license for cause by the
20 [~~commission~~] division.

21 B. A contractor whose license has been suspended or
22 revoked shall complete work in progress as directed by the
23 [~~commission~~] division.

24 C. At the end of the suspension period, the
25 [~~commission~~] division shall review the license to determine if

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1 the license should be reinstated or revoked. "

2 Section 23. Section 60-13-29 NMSA 1978 (being Laws 1967,
3 Chapter 199, Section 32, as amended) is amended to read:

4 "60-13-29. RENEWAL OF REVOKED LICENSE OR CERTIFICATES. --
5 After revocation of [~~any~~] a license or certificate of
6 qualification issued pursuant to the Construction Industries
7 Licensing Act, no license or certificate shall be issued,
8 renewed or reissued to the licensee until a period of one year
9 after the date of the original order of revocation by the
10 [~~commission~~] division has expired. After expiration of that
11 period, no license or certificate shall be issued, renewed or
12 reissued except as is provided for the issuance of [~~any~~] an
13 initial license or certificate. "

14 Section 24. Section 60-13-33 NMSA 1978 (being Laws 1967,
15 Chapter 199, Section 36, as amended) is amended to read:

16 "60-13-33. TRADE BUREAUS--GENERAL DUTIES AND POWERS. --

17 The trade bureaus shall:

18 A. cooperate in administering examinations for the
19 licensing and certification of the occupations or trades
20 assigned to their jurisdictions pursuant to the Construction
21 Industries Licensing Act and provide those examinations and
22 any related materials in both English and Spanish;

23 B. perform inspections of all occupations, trades
24 and activities within their jurisdictions;

25 C. be responsible for all administrative duties and

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1 other duties necessary and incidental thereto required in the
2 Construction Industries Licensing Act, including those
3 activities and duties assigned to them by the director; and

4 D. recommend rules [~~and regulations~~] and submit them
5 to the division for approval [~~by the commission~~] and
6 promulgation [~~by the division~~]. "

7 Section 25. Section 60-13-36 NMSA 1978 (being Laws 1967,
8 Chapter 199, Section 39, as amended) is amended to read:

9 "60-13-36. CERTIFICATES OF COMPETENCE--SUSPENSION AND
10 REVOCATION. --

11 A. The [~~commission~~] division may suspend [~~any~~] a
12 certificate of competence issued within the scope of [~~the~~] a
13 bureau's trade for a definite period not exceeding ninety
14 consecutive days.

15 B. Suspension of a certificate of competence shall
16 be for any cause specified in the Construction Industries
17 Licensing Act.

18 C. The [~~commission~~] division may revoke [~~any~~] a
19 certificate of competence issued by it only for the following
20 causes:

21 (1) misrepresentation of a material fact by the
22 individual obtaining the certificate;

23 (2) violation willfully or by reason of
24 incompetence of [~~any~~] a provision of the Construction
25 Industries Licensing Act or [~~any~~] a code, minimum standard,

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1 rule or regulation adopted pursuant to that act pertaining to
2 installation, alteration, maintenance, connection or repair;
3 or

4 (3) aiding, abetting, combining or conspiring
5 with a person to evade or violate the provisions of the
6 Construction Industries Licensing Act or ~~[any]~~ a code, minimum
7 standard, rule or regulation adopted pursuant thereto."

8 Section 26. Section 60-13-38 NMSA 1978 (being Laws 1967,
9 Chapter 199, Section 41, as amended) is amended to read:

10 "60-13-38. CERTIFICATES OF COMPETENCE-- EXAMINATION--
11 JOURNEYMEN. --

12 A. No individual shall engage in the occupation or
13 trade of journeyman unless he holds a certificate of
14 competence issued by the division for the occupation or trade
15 in which he desires to engage.

16 B. The division shall issue certificates of
17 competence for journeyman electricians, journeyman plumbers,
18 journeyman gas fitters, journeyman pipe fitters, journeyman
19 sheet metal workers, journeyman boiler operators and
20 journeyman welders working on pipelines, collection lines or
21 compressor stations.

22 C. An applicant for a certificate of competence
23 shall pass an examination approved and adopted by the division
24 as to his knowledge of the orders, rules and regulations
25 governing the occupation or trade for which a certificate is

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1 sought, and he shall also be examined as to his technical
2 knowledge and ability pertaining to his particular trade. The
3 examination may be oral, written or demonstrative or ~~[any]~~ a
4 combination thereof, as required by ~~[regulations]~~ rule of the
5 ~~[commission]~~ division; provided that the division shall issue
6 a certificate of competence to ~~[any]~~ a journeyman welder
7 working on pipelines, collection lines or compressor stations
8 who shows evidence of having satisfactorily completed an
9 examination administered by an independent testing
10 organization or public utility employing engineers registered
11 with the state, such examination meeting the minimum pipeline
12 safety standards set by the ~~[state corporation]~~ public
13 regulation commission.

14 D. Applications for certificates of competence shall
15 be in the form and shall contain such information and
16 attachments as the division prescribes.

17 E. The division shall establish a reasonable fee for
18 ~~[any]~~ an examination or issuance of certificate of competence.

19 F. No individual is eligible to take an examination
20 for a certificate of competence unless he has ~~[had]~~ two years'
21 experience in the occupation or trade for which a certificate
22 of competence is sought, or the equivalent thereof as
23 determined by the ~~[commission]~~ division, or has successfully
24 completed a course in the trade approved by the vocational
25 education division of the state department of public

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1 education. Employment of an apprentice working under the
2 direct supervision of a certified journeyman is not prohibited
3 by the Construction Industries Licensing Act. "

4 Section 27. Section 60-13-41 NMSA 1978 (being Laws 1967,
5 Chapter 199, Section 49, as amended) is amended to read:

6 "60-13-41. INSPECTORS--DESIGNATED INSPECTION AGENCIES. --

7 A. State inspectors shall be employed by the
8 director.

9 B. Qualifications [~~and job descriptions~~] for
10 inspectors for the state, municipalities and all other
11 political subdivisions shall be prescribed by the [~~commission~~.
12 ~~The commission shall also promulgate rules and regulations~~
13 ~~establishing a recertification incentive plan which provides~~
14 ~~for salary increases for state inspectors based on education~~
15 ~~and training and additional qualifications] division.~~

16 C. The division may appoint inspection agencies to
17 inspect the construction, installation, alteration or repair
18 of manufactured commercial units, modular homes and
19 premanufactured homes, including those manufacturers whose
20 business premises are without the state, to ensure that the
21 New Mexico standards of construction and installation are
22 adhered to and that the quality of construction meets all New
23 Mexico codes and standards. If the inspection agency has no
24 place of business within the state, it shall file a written
25 statement with the secretary of state setting forth its name

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1 and business address and designating the secretary of state as
2 its agent for the service of process.

3 D. The division may enter into reciprocal agreements
4 with other jurisdictions having comparable codes, standards
5 and inspection requirements for the inspection of the
6 construction, alteration or repair of modular homes,
7 premanufactured homes and manufactured commercial units.

8 E. The division may [~~with the approval of the~~
9 ~~commission~~] establish qualifications for inspectors certified
10 to inspect in more than one bureau's jurisdiction. "

11 Section 28. Section 60-13-42 NMSA 1978 (being Laws 1967,
12 Chapter 199, Section 50, as amended) is amended to read:

13 "60-13-42. AUTHORITY OF INSPECTORS--LIMITATION. --

14 A. A state certified inspector may, during
15 reasonable hours, enter [~~any~~] a building or go upon any
16 premises in the discharge of his official duties for the
17 purpose of making an inspection of work performed or for the
18 purpose of testing [~~any~~] an installation authorized within the
19 jurisdiction of his trade certification. He may cut or
20 disconnect, or have cut or disconnected in cases of emergency,
21 [~~any~~] an installation or device when necessary for safety to
22 life or property or where the installation may interfere with
23 the work of a fire department.

24 B. The inspector may disconnect or order the
25 discontinuance of [~~any~~] a service to [~~any~~] an installation,

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1 device, appliance or equipment found to be dangerous to life
2 or property because it is defective or is incorrectly
3 installed, until the installation, device, appliance or
4 equipment is made safe and is approved by the inspector.

5 C. The inspector may order the correction of [~~any~~
6 ~~defects~~] a defect or [~~any~~] an incorrect installation [~~which~~
7 ~~that~~ prompted the disconnection and discontinuance of service.

8 D. [~~In all cases where~~] When a disconnection is
9 made, a notice shall be attached by the inspector to the
10 installation, device, appliance or equipment disconnected,
11 which notice shall state that the same has been disconnected
12 by or on order of the inspector and the reason for the
13 disconnection. It is unlawful for [~~any~~] a person to remove
14 the notice or to use the installation, device, appliance or
15 equipment without authorization of an inspector.

16 E. The powers granted by this section to [~~any~~] a
17 municipal inspector may be exercised by him only in the
18 localities where he is authorized to make inspection.

19 F. The division shall by [~~regulation~~] rule adopt
20 official inspection stickers or medallions for the purpose of
21 identifying those modular homes and premanufactured homes
22 [~~which~~] that have been inspected and found to comply with
23 [~~all~~] the requirements of the state codes and standards. State
24 inspection and acceptance for use of modular homes and
25 premanufactured homes shall exclusively apply to the use and

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1 occupancy of such dwellings in the state and in [~~any of~~] its
2 political subdivisions, subject to the requirements of local
3 planning and zoning ordinances and ordinances requiring
4 permits and inspections for foundations, electrical and
5 mechanical hookups or other safety or sanitary requirements. "

6 Section 29. Section 60-13-43 NMSA 1978 (being Laws 1967,
7 Chapter 199, Section 51, as amended) is amended to read:

8 "60-13-43. QUALIFICATION OF MUNICIPAL AND COUNTY
9 INSPECTORS. --

10 A. No person shall be employed by [~~any~~] a
11 municipality or county as an inspector unless he has first
12 secured approval from the division of his competence as an
13 inspector.

14 B. Trade bureaus shall issue to [~~all~~] each approved
15 municipal and county [~~inspectors~~] inspector a certificate
16 setting forth the fact of approval.

17 C. Certification by the division shall remain in
18 effect unless rescinded by action of the [~~commission~~]
19 division.

20 D. [~~Any~~] A complaint brought against a certified
21 municipal or county inspector shall cause the director to
22 assign an investigator to investigate the merits of the
23 complaint and report to the [~~commission~~] division within
24 thirty days. "

25 Section 30. Section 60-13-44 NMSA 1978 (being Laws 1967,

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1 Chapter 199, Section 52, as amended) is amended to read:

2 "60-13-44. TRADE BUREAUS--STANDARDS--CONFLICTS.--

3 A. The electrical bureau shall recommend to the
4 [~~commission~~] division minimum standards for the installation
5 or use of electrical wiring. The recommendations shall
6 substantially embody the applicable provisions of electrical
7 standards for safety to life and property promulgated by a
8 nationally recognized underwriting laboratory, as approved by
9 a nationally recognized standards association, which standards
10 are in general use in the United States or in a clearly
11 defined region of the United States.

12 B. The mechanical bureau shall recommend to the
13 [~~commission~~] division minimum standards for the installation
14 of all fixtures, consumers' gas pipe, appliances and materials
15 installed in the course of a mechanical installation. The
16 recommendations shall be in substantial conformity with the
17 Uniform Mechanical Code published by the international
18 conference of building officials and the Uniform Plumbing Code
19 published by the international association of mechanical and
20 plumbing officials. Manufacturers may choose the independent
21 certification organization they wish to certify their
22 products, if the certification organization is accredited by
23 the American national standards institute or other
24 accreditation organization selected by the [~~commission~~]
25 division.

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1 C. The general construction bureau shall recommend
2 to the [~~commission~~] division minimum standards for the
3 construction, alteration or repair of buildings, except for
4 those activities within the jurisdiction of the electrical
5 bureau or the mechanical bureau. The recommendations shall
6 substantially embody the applicable provisions of a nationally
7 recognized building code that is in general use in the United
8 States or in a clearly defined region of the United States and
9 shall give due regard to physical, climatic and other
10 conditions peculiar to New Mexico. The standards shall
11 include the authority to permit or deny occupancy of existing
12 and new buildings or structures and authority to accept or
13 deny the use of materials manufactured within or without the
14 state. The general construction bureau may set minimum fees
15 or charges for conducting tests to verify claims or
16 specifications of manufacturers.

17 D. The general construction bureau shall recommend
18 to the [~~commission~~] division additional specifications for any
19 public building constructed in the state through expenditure
20 of state, county or municipal funds, bonds and other revenues,
21 which specifications shall embody standards making the
22 building accessible to individuals who are physically
23 handicapped, and the specifications shall conform
24 substantially with those contained in a nationally recognized
25 standard for making public facilities accessible to the

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1 physically handicapped. [A+] Orders and rules recommended by
2 the general construction bureau and adopted by the
3 [~~commission~~] division under the provisions of this section
4 shall be printed and distributed to all licensed contractors,
5 architects and engineers and to the governor's committee on
6 concerns of the handicapped. The orders and rules shall take
7 effect on a date fixed by the [~~commission~~] division, which
8 shall not be less than thirty days after their adoption by the
9 [~~commission~~] division, and shall have the force of law.

10 E. The general construction bureau shall have the
11 right of review of all specifications of public buildings and
12 the responsibility to ensure compliance with the adopted
13 standards.

14 F. [A+] Political subdivisions of the state are
15 subject to the provisions of codes adopted and approved under
16 the Construction Industries Licensing Act. Such codes
17 constitute a minimum requirement for the codes of political
18 subdivisions.

19 G. The trade bureaus within their respective
20 jurisdictions shall recommend to the [~~commission~~] division
21 standards for the installation or use of electrical wiring,
22 the installation of all fixtures, consumers' gas pipe,
23 appliances and materials installed in the course of mechanical
24 installation and the construction, alteration or repair of all
25 buildings intended for use by the physically handicapped or

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1 persons requiring special facilities to accommodate the aged.
2 The recommendations shall give due regard to physical,
3 climatic and other conditions peculiar to New Mexico.

4 H. The trade bureaus within their respective
5 jurisdictions shall recommend to the [~~commission~~] division
6 standards for the construction, alteration, repair, use or
7 occupancy of manufactured commercial units, modular homes and
8 premanufactured homes. The recommendations shall
9 substantially embody the applicable provisions or standards
10 for the safety to life, health, welfare and property approved
11 by the nationally recognized standards association, which
12 standards are in general use in the United States or in a
13 clearly defined region of the United States, and shall give
14 due regard to physical, climatic and other conditions peculiar
15 to New Mexico. Wherever existing state codes or standards
16 conflict with the codes and standards adopted by the
17 [~~commission~~] division under the provisions of this subsection,
18 the provisions of the New Mexico Uniform Building Code, the
19 New Mexico Electrical Code, the New Mexico Plumbing Code or
20 the Natural Gas Code of New Mexico shall exclusively apply and
21 control, except for codes and standards for mobile housing
22 units.

23 I. Modular homes and premanufactured homes in
24 existence at the time of the effective date of the
25 Construction Industries Licensing Act shall have their use or

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1 occupancy continued if such use or occupancy was legal on the
2 effective date of that act, provided such continued use or
3 occupancy is not dangerous to life. [~~Any~~] A change in the use
4 or occupancy or [~~any~~] a major alteration or repair of a
5 modular home or premanufactured home shall comply with all
6 codes and standards adopted under the Construction Industries
7 Licensing Act.

8 J. The [~~commission~~] division shall review [~~all~~] the
9 recommendations made under the provisions of this section and
10 shall by rule adopt standards and codes that substantially
11 comply with the requirements of this section that apply to the
12 recommendations of the trade bureaus. "

13 Section 31. Section 60-13-45 NMSA 1978 (being Laws 1967,
14 Chapter 199, Section 53, as amended) is amended to read:

15 "60-13-45. TRADE BUREAUS-- PERMITS. --

16 A. The trade bureaus within their respective
17 jurisdictions may require a permit to be secured and
18 conspicuously posted prior to [~~any~~] the construction,
19 installation, alteration, repair or addition to or within
20 [~~any~~] a building, structure or premises.

21 B. No permit shall be required for the performance
22 of [~~any of~~] the following classes of work:

23 (1) minor repairs, sheetrock, patching,
24 painting, fencing under six feet in height that is not used as
25 a retaining wall, replacement of lamps or light fixtures, the

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1 connection of portable electrical equipment to suitable
2 receptacles [~~which~~] that are permanently installed, minor
3 repairs or replacement of [~~or to~~] faucets, taps or jets,
4 lavatories, water closets or toilets or the connection of
5 portable electrical or mechanical equipment or machinery to
6 suitable connections or inlets [~~which~~] that have been
7 permanently installed;

8 (2) installation of temporary wiring for
9 testing electrical equipment or apparatus or installation of
10 temporary fixtures or devices for testing fixtures, equipment,
11 apparatus or appliances;

12 (3) installation, alteration or repair of
13 electrical equipment and circuits used for the operation of
14 signals or the transmission of intelligence by wire; [~~and~~] or

15 (4) installation or work [~~which~~] that is done
16 after regular business hours or during a holiday when
17 immediate action is imperative to safeguard life, health or
18 property, provided the person making the installation or
19 performing the work applies for a permit covering the
20 installation or work not later than the next business day.

21 C. If a permit has been issued for construction of a
22 new residential building, that residential building shall not
23 be occupied until a certificate of occupancy has been issued
24 certifying compliance with all codes and standards.

25 D. The [~~commission~~] division shall make rules [~~and~~

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1 ~~regulations~~] pertaining to the issuance of permits and the
2 setting of reasonable fees to be paid by the applicant for a
3 permit. The [~~regulations~~] rules shall provide a procedure for
4 the issuance of permits outside the corporate limits of a
5 municipality where inspection is made by a state inspector or
6 a municipal inspector serving as a part-time state inspector
7 and for inspections within a municipality where the inspection
8 is done exclusively by a full-time state inspector. Each
9 trade bureau by regulation may require a reasonable bond or
10 surety in the penal sum of five hundred dollars (\$500) or
11 more, but not to exceed fifteen hundred dollars (\$1,500), with
12 such bureau named as obligee and conditioned for the payment
13 of inspection fees provided in the Construction Industries
14 Licensing Act. Nothing in this section shall preclude
15 municipalities from making inspections in accordance with the
16 Construction Industries Licensing Act or rules and regulations
17 pursuant to that act or from establishing a schedule of fees
18 to be paid by an applicant for a permit.

19 E. In the event that the division assumes
20 inspections of a municipal or county jurisdiction, the permit
21 fees shall be paid directly to the division. "

22 Section 32. Section 60-13-49 NMSA 1978 (being Laws 1967,
23 Chapter 199, Section 57, as amended) is amended to read:

24 "60-13-49. PROOF OF RESPONSIBILITY. --

25 A. No applicant for a contractor's license or for

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1 renewal of a contractor's license shall be issued a license
2 until the director determines that he is responsible to
3 perform under the individual permit capacity for which he
4 furnishes proof of responsibility pursuant to Subsection C of
5 this section.

6 B. Proof of responsibility shall be:

7 (1) a license bond acceptable to the director
8 and underwritten by a corporate surety authorized to transact
9 business in New Mexico;

10 (2) an agreement of cash collateral assignment
11 executed with a state or national bank or federally insured
12 savings association authorized to do business in New Mexico as
13 trustee, in a form prescribed by the ~~[commission]~~ division.
14 Interest, if any, accumulating on the cash collateral
15 assignment shall accrue to the licensee; or

16 (3) a current financial statement, which shall
17 be filed initially with the license application and filed
18 annually thereafter with the division. The financial
19 statement shall be a current audited financial statement or
20 certified by a financial institution.

21 C. Proof of responsibility shall be furnished in
22 amounts as follows:

23 (1) for a licensee or applicant who permits or
24 contracts projects singly in New Mexico for a dollar value of
25 twenty-five thousand dollars (\$25,000) or less, proof of

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1 responsibility in the amount of five hundred dollars (\$500).

2 [~~This~~] That licensee's maximum permit or contract capacity
3 shall be twenty-five thousand dollars (\$25,000);

4 (2) for a licensee or applicant who permits or
5 contracts projects singly in New Mexico for a dollar value of
6 more than twenty-five thousand dollars (\$25,000) but less than
7 two hundred thousand dollars (\$200,000), proof of
8 responsibility in the amount of one thousand dollars (\$1,000).

9 [~~This~~] That licensee's maximum permit or contract capacity
10 shall be two hundred thousand dollars (\$200,000);

11 (3) for a licensee or applicant who permits or
12 contracts projects singly in New Mexico for a dollar value of
13 more than two hundred thousand dollars (\$200,000) but less
14 than one million dollars (\$1,000,000), proof of responsibility
15 in the amount of two thousand five hundred dollars (\$2,500).

16 [~~This~~] That licensee's maximum permit or contract capacity
17 shall be one million dollars (\$1,000,000); and

18 (4) for a licensee or applicant who permits or
19 contracts projects singly in New Mexico for a dollar value of
20 more than one million dollars (\$1,000,000), proof of
21 responsibility in the amount of five thousand dollars
22 (\$5,000). [~~This~~] That licensee shall have no maximum permit
23 or contract capacity.

24 D. Proof of responsibility shall be for the payment
25 of fines and penalties.

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1 E. Proof of responsibility, if a bond, shall be a
2 continuous form bond on a form prescribed by the [~~commission~~]
3 division. It shall be a condition of the bond that the total
4 aggregate liability of the surety for all claims shall be
5 limited to the face amount of the bond irrespective of the
6 number of years the bond is in force.

7 F. Proof of responsibility posted by a licensee or
8 applicant shall be in a form to provide thirty days' written
9 notice of a cancellation to the division.

10 G. Failure to maintain proof of responsibility for
11 the period required by law is cause for revocation of the
12 license.

13 H. No legal action may be maintained on the proof of
14 responsibility unless the action is commenced within twelve
15 months after the case accrues or within twelve months after
16 substantial completion of the project, whichever is earlier.

17 I. If a licensee's license bond or cash collateral
18 assignment is canceled, expires or otherwise becomes
19 ineffective during the period for which it is required, the
20 division shall cancel the license upon receiving notice of
21 such cancellation, expiration or ineffectiveness. The
22 cancellation of the license shall become effective thirty days
23 after the date that notice of such action is mailed to the
24 licensee by the division, unless the licensee provides to the
25 division within that thirty days proof of responsibility as

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1 required under this section. A person whose license has been
2 canceled pursuant to this subsection may be renewed or
3 reinstated provided he complies with all licensing
4 requirements.

5 J. Contracting or bidding during the period when the
6 license bond or cash collateral assignment is canceled,
7 expired or otherwise ineffective is cause for revocation of
8 the license by the [~~commission~~] division. "

9 Section 33. Section 60-13-51 NMSA 1978 (being Laws 1971,
10 Chapter 233, Section 1, as amended) is amended to read:

11 "60-13-51. CONTRACTOR'S BOND-- MUNICIPAL REQUIREMENT
12 PROHIBITED.--No municipality shall require [~~any~~] a person or
13 corporation licensed under the provisions of the Construction
14 Industries Licensing Act to file or obtain as a condition of
15 doing business as a licensed contractor within the
16 municipality [~~any~~] an additional license bond as proof of
17 responsibility if the person or corporation has met the
18 responsibility requirements of the [~~commission~~] division. "

19 Section 34. Section 60-13-53 NMSA 1978 (being Laws 1967,
20 Chapter 199, Section 60, as amended) is amended to read:

21 "60-13-53. [~~COMMISSION OR~~] DIVISION-- POWERS OF
22 INJUNCTION-- MANDAMUS.--The [~~commission or~~] division may
23 enforce in the district court of the county in which the
24 offense was committed the provisions of the Construction
25 Industries Licensing Act by injunction, mandamus or any proper

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1 legal proceeding. "

2 Section 35. Section 60-13-55 NMSA 1978 (being Laws 1967,
3 Chapter 199, Section 62, as amended) is amended to read:

4 "60-13-55. CONTINUATION OF CONSTRUCTION CODES AND
5 STANDARDS. -- ~~Any~~ A code and minimum standard related to the
6 construction, alteration, installation or repair of a private
7 or public building or installation on public or private
8 premises in effect at the time of passage and approval of the
9 Construction Industries Licensing Act shall continue in effect
10 until the ~~[commission]~~ division and trade bureaus created by
11 the Construction Industries Licensing Act amend or revise
12 those codes and minimum standards pursuant to provisions of
13 the Construction Industries Licensing Act. "

14 Section 36. Section 60-13-57 NMSA 1978 (being Laws 1973,
15 Chapter 229, Section 5, as amended) is amended to read:

16 "60-13-57. HEARING OFFICER AUTHORIZED. -- The ~~[commission]~~
17 division may designate a hearing officer to preside over and
18 take evidence at any hearing held pursuant to the Construction
19 Industries Licensing Act. Hearing officers may be employees
20 or individuals hired outside the division by contract or on a
21 case-by-case basis as determined by the ~~[commission]~~
22 division. "

23 Section 37. Section 61-1-2 NMSA 1978 (being Laws 1957,
24 Chapter 247, Section 2, as amended by Laws 1993, Chapter 49,
25 Section 31 and by Laws 1993, Chapter 171, Section 25 and also

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1 by Laws 1993, Chapter 295, Section 1) is amended to read:

2 "61-1-2. DEFINITIONS. --As used in the Uniform Licensing
3 Act:

4 A. "board" means:

5 (1) [~~the construction industries commission~~]
6 the construction industries division and the electrical
7 bureau, mechanical bureau and general construction bureau of
8 the construction industries division of the regulation and
9 licensing department;

10 (2) the manufactured housing committee and
11 manufactured housing division of the regulation and licensing
12 department;

13 (3) a board, commission or agency that
14 administers a profession or occupation licensed pursuant to
15 Chapter 61 NMSA 1978; and

16 (4) any other state agency to which the Uniform
17 Licensing Act is applied by law;

18 B. "applicant" means a person who has applied for a
19 license;

20 C. "license" means a certificate, permit or other
21 authorization to engage in each of the professions and
22 occupations regulated by the boards enumerated in Subsection A
23 of this section;

24 D. "revoke a license" means to prohibit the conduct
25 authorized by the license; and

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1 E. "suspend a license" means to prohibit, for a
2 stated period of time, the conduct authorized by the license.
3 "Suspend a license" also means to allow for a stated period of
4 time the conduct authorized by the license subject to
5 conditions that are reasonably related to the grounds for
6 suspension. "

7 Section 38. Section 70-5-1 NMSA 1978 (being Laws 1947,
8 Chapter 214, Section 1, as amended) is amended to read:

9 "70-5-1. DEFINITIONS. --As used in the LPG and CNG Act:

10 A. "liquefied petroleum gases", "LPG" ~~[and]~~ or "LP
11 gas" means any material that is composed predominantly of any
12 of the following hydrocarbons or mixtures of them: propane,
13 propylene, butanes (normal butane or iso-butane) and
14 butylenes;

15 B. "compressed natural gases" ~~[and]~~ or "CNG" means
16 mixtures of hydrocarbon gases and vapors consisting
17 principally of methane in gaseous form ~~[which]~~ that has been
18 compressed for vehicular fuel;

19 C. "product" or "products" of liquefied petroleum
20 gases or compressed natural gases are considered to be
21 liquefied petroleum gases or compressed natural gases
22 respectively;

23 D. "qualified instructor" means an employee who has
24 passed the required examination and performed for at least one
25 year the work being taught;

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1 E. "inspector" means a person hired by the bureau to
2 enforce under administrative direction the laws and safety
3 rules and regulations of the LP gas industry and the use of
4 CNG in motor vehicles;

5 F. "division" means the construction industries
6 division of the regulation and licensing department; and

7 G. "bureau" means the liquefied petroleum [~~and~~
8 ~~compressed~~] gas bureau of the division [~~and~~

9 ~~H. "commission" means the construction industries~~
10 ~~commission~~]. "

11 Section 39. Section 70-5-3 NMSA 1978 (being Laws 1947,
12 Chapter 214, Section 2, as amended) is amended to read:

13 "70-5-3. RULES AND REGULATIONS FOR DESIGN, CONSTRUCTION,
14 ASSEMBLING, EQUIPPING AND INSTALLING OF CONTAINERS AND
15 EQUIPMENT.--All containers and pertinent equipment used or to
16 be used in this state for CNG equipment when attached to motor
17 vehicles or for the storage, transporting or dispensing of LP
18 gases or CNG by industrial, commercial or domestic users,
19 together with appliances used or to be used in this state with
20 LP gases as fuel, shall be designed, constructed, assembled,
21 equipped and installed as specified by the rules and
22 regulations of the [~~commission~~] division, adopted and
23 promulgated as provided in the LPG and CNG Act. "

24 Section 40. Section 70-5-4 NMSA 1978 (being Laws 1947,
25 Chapter 214, Section 3, as amended) is amended to read:

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1 "70-5-4. ACTS CONCERNING LP GAS OR CNG SUBJECT TO
2 ~~[COMMISSION]~~ DIVISION RULES AND REGULATIONS. -- The selling,
3 offering for sale, constructing, assembling, repairing,
4 equipping, installing, filling with fuel, storage of fuel
5 within, dispensing of fuel from or transporting fuel within
6 containers described in Section 70-5-3 NMSA 1978 without the
7 containers having been designed, constructed, assembled,
8 equipped, maintained, tested and inspected as specified by the
9 rules and regulations of the ~~[commission]~~ division pursuant to
10 the LPG and CNG Act shall be a violation of the LPG and CNG
11 Act and shall be subject to the fines, penalties and
12 restrictions provided. "

13 Section 41. Section 70-5-5 NMSA 1978 (being Laws 1947,
14 Chapter 214, Section 4, as amended) is amended to read:

15 "70-5-5. POWER TO ADOPT AND PROMULGATE RULES ~~[AND~~
16 ~~REGULATIONS]~~ -- EXCEPTIONS TO ACT. --

17 A. The ~~[commission]~~ division may adopt and
18 promulgate rules ~~[and regulations]~~ as ~~[are]~~ necessary to carry
19 out the purpose of the LPG and CNG Act and for the public
20 peace, health and safety as affected by the use of such
21 materials. The ~~[regulations made]~~ rules shall substantially
22 conform with the standards as published by the national fire
23 protection association covering the same subject matter.
24 Nothing contained in this section is intended to alter the
25 specifications for manufacturing or testing of containers

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1 established by the interstate commerce commission or the
2 [~~U.S.~~] United States department of transportation or of
3 containers installed in refineries, gas processing plants,
4 underground storage terminals, natural gas distributing plants
5 and pipeline terminals.

6 B. The bureau may adopt a schedule of reasonable
7 fees to be charged for furnishing any printed matter or forms,
8 for filing or recording any data sheets, blueprints, drawings,
9 plans, specifications, reports and any other instrument or
10 document and for making and furnishing copies of any record,
11 report, regulation, rule, law or any other matter on file with
12 the bureau. "

13 Section 42. Section 70-5-6 NMSA 1978 (being Laws 1947,
14 Chapter 214, Section 5, as amended) is amended to read:

15 "70-5-6. LICENSE--EXCEPTIONS.--

16 A. No person, firm or corporation shall engage in
17 this state in the manufacturing, assembling, repairing,
18 selling or installing of containers or appliances or of
19 equipment for CNG attached or to be attached to motor vehicles
20 to be used with LP gases as a fuel, nor shall any person, firm
21 or corporation engage in the manufacture, sale,
22 transportation, dispensing or storage of LP gases within this
23 state, except where stored by the ultimate consumer for
24 consumption only, without having first obtained from the
25 bureau a license to do so for each main and branch office or

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1 business operated within the state pursuant to the LPG and CNG
2 Act. No license shall be issued until the bureau has
3 determined that the applicant meets all safety requirements
4 provided for in that act and required by the rules and
5 regulations of the [~~commission~~] division and the bureau finds
6 that the applicant is fit and able to perform the work for
7 which a license is requested; provided that household
8 appliances and any other appliance, container or equipment
9 being fed from a reservoir less than five pounds shall not be
10 subject to the LPG and CNG Act and provided further that
11 retail sale of LP gas appliances, including factory installed
12 LP gas appliances and equipment on campers, mobile homes and
13 recreational vehicles, shall be exempt from this section.

14 B. When LP gas or CNG is to be the source of fuel,
15 the installation of piping, appliances and equipment shall be
16 made by installers qualified by the bureau. Property-owner
17 installed systems, when certified by qualified installers or
18 inspectors of the bureau, are exempt from the provisions of
19 this subsection. "

20 Section 43. Section 70-5-7 NMSA 1978 (being Laws 1970,
21 Chapter 65, Section 1, as amended) is amended to read:

22 "70-5-7. REQUIRING COMPETENT EMPLOYEES IN TRANSPORTING,
23 DISPENSING, INSTALLATION, SERVICE OR REPAIR. --

24 A. The bureau may require each person, firm or
25 corporation that transports or dispenses LP gas or that

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1 installs, repairs or services appliances, containers,
2 equipment or piping for the use of LP gas to have all persons
3 who perform these activities pass an appropriate examination
4 based on the safety requirements of the [~~commission~~] division.

5 B. A trainee employee shall be exempt from such
6 examination for a period of forty-five working days and until
7 examined by a representative of the bureau. A trainee
8 employee, during the forty-five day period, shall be under
9 supervision of a qualified instructor. Any LP or CNG gas
10 licensee hiring a trainee shall, within forty-five days of the
11 commencement of employment, notify the bureau of this fact so
12 that an examination may be scheduled. If the trainee fails to
13 pass the examination, he may retake it after additional
14 instruction.

15 C. The bureau shall set a reasonable fee for
16 administering an examination. "

17 Section 44. Section 70-5-11 NMSA 1978 (being Laws 1973,
18 Chapter 362, Section 11, as amended) is amended to read:

19 "70-5-11. PROOF OF RESPONSIBILITY. --

20 A. The bureau shall require each licensee to have
21 combined single limit public liability insurance of a
22 reasonable amount determined by the [~~commission~~] division.
23 Such coverage shall be filed on a certificate to be prescribed
24 by the [~~commission~~] division, and the coverage shall be
25 effective until canceled by either the carrier or the

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1 licensee. The provisions of this subsection do not apply to
2 manufacturers of LP gas.

3 B. The licensee may file as an alternative to
4 insurance described in Subsection A of this section a
5 corporate surety bond of a reasonable amount determined by the
6 [~~commission~~] division.

7 C. The insurance or the surety bond shall be
8 purchased from a company licensed to do business in New
9 Mexico.

10 D. The certificate of insurance or the surety bond
11 filed with the bureau shall continue to be effective until
12 thirty days after the date the bureau is notified in writing
13 of the cancellation of the insurance or surety bond. "

14 Section 45. Section 70-5-12 NMSA 1978 (being Laws 1947,
15 Chapter 214, Section 12, as amended) is amended to read:

16 "70-5-12. POWER OF BUREAU AND [~~COMMISSION~~] DIVISION TO
17 REFUSE TO GRANT, SUSPEND OR CANCEL A LICENSE. --The bureau may
18 refuse to grant a license to any applicant and may request the
19 [~~commission~~] division to suspend or cancel the license of any
20 licensee if it appears to the bureau upon hearing, as provided
21 in the LPG and CNG Act, that an applicant or licensee has
22 violated or failed to comply with any provision of law
23 relating to LP gas or CNG or with any rule, regulation or
24 order of the bureau or [~~commission~~] division or that any
25 licensee has demonstrated that he is incompetent or lacks

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1 knowledge in matters relevant to a license to such an extent
2 that, in the judgment of the bureau, it would endanger the
3 public safety to allow the licensee to continue to engage in
4 LP gas or CNG activities or operations. "

5 Section 46. Section 70-5-13 NMSA 1978 (being Laws 1947,
6 Chapter 214, Section 13, as amended) is amended to read:

7 "70-5-13. PROVISIONS FOR HEARINGS. -- Upon receipt of
8 written complaint from one of its representatives or by [~~any~~]
9 a person or party affected, the bureau may, if it finds
10 probable cause for such complaint, request the [~~commission~~]
11 division to hold a hearing to consider the complaint under the
12 provisions of the LPG and CNG Act and under such rules and
13 regulations not inconsistent with that act. If at the hearing
14 the [~~commission~~] division finds that the licensee has violated
15 or failed to comply with any of the provisions of the LPG and
16 CNG Act or the rules and regulations of the bureau or
17 [~~commission-then~~] division, the [~~commission~~] division may
18 revoke or suspend the license of the licensee. The bureau may
19 investigate on its own motion any matters pertaining to the
20 subject of the LPG and CNG Act and may hold such hearings as
21 it deems necessary. The bureau may also summon and compel the
22 attendance of witnesses, require the production of any records
23 or documents deemed by it to be pertinent to the subject
24 matter of any investigation and provide for the taking of
25 depositions of witnesses under such rules as it may

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1 prescribe. "

2 Section 47. Section 70-5-14 NMSA 1978 (being Laws 1947,
3 Chapter 214, Section 14, as amended) is amended to read:

4 "70-5-14. NOTICE--HEARING.--Notice of any hearing and of
5 its time and place shall be given by certified mail not less
6 than ten days, exclusive of the day of mailing, before the
7 hearing. The notice shall be sent to the licensee and all
8 persons involved. Any licensee against whom a complaint has
9 been filed shall have the right to file answer, appear at the
10 hearing, introduce evidence and be heard both in person and by
11 counsel. In the hearing before the [~~commission~~] division, the
12 rules of civil procedure and the technical rules of evidence
13 shall not apply, but the hearing shall be conducted so that
14 both complaints and defenses are amply and fairly presented. "

15 Section 48. Section 70-5-15 NMSA 1978 (being Laws 1973,
16 Chapter 362, Section 15, as amended) is amended to read:

17 "70-5-15. FINDING--RECORD.--At the conclusion of any
18 hearing held to consider a complaint filed against any
19 licensee under the LPG and CNG Act, the [~~commission~~] division
20 shall enter its finding and order in writing, and the finding
21 and order shall be recorded in a permanent record to be kept
22 by the division. A copy of the [~~commission's~~] division's
23 finding and order shall be furnished to the licensee
24 complained of. "

25 Section 49. Section 70-5-16 NMSA 1978 (being Laws 1973,

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1 Chapter 362, Section 16, as amended) is amended to read:

2 "70-5-16. APPEAL. --A licensee whose license is canceled
3 or suspended by order of the [~~commission~~] division may appeal
4 the decision by filing an appeal with the district court
5 pursuant to the provisions of Section 39-3-1.1 NMSA 1978. "

6 Section 50. Section 70-5-18 NMSA 1978 (being Laws 1947,
7 Chapter 214, Section 18, as amended) is amended to read:

8 "70-5-18. CIVIL PENALTY FOR FAILURE TO COMPLY WITH ACT
9 OR ANY ORDER, RULE OR REGULATION. --The failure of any person,
10 firm or corporation or any association engaged in any LP gas
11 or CNG activity or operation requiring a license by the bureau
12 to comply, within forty-eight hours after the receipt of any
13 certified order of the bureau or [~~commission~~] division
14 requiring compliance, with the laws relating to LP gases or
15 CNG or any order, rule or regulation of the bureau or
16 [~~commission~~] division shall subject the person or the officers
17 of the corporation to a civil penalty of one hundred dollars
18 (\$100) for each day the violation continues, and the attorney
19 general may institute civil actions in the district court of
20 the county in which the violation occurs to recover penalties
21 in the name and on behalf of the state. "

22 Section 51. Section 70-5-20 NMSA 1978 (being Laws 1947,
23 Chapter 214, Section 21, as amended) is amended to read:

24 "70-5-20. ENFORCEMENT. --The bureau may enforce the laws
25 relating to LP gases and CNG and any rules, regulations or

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1 orders adopted by it or the [~~commission~~] division pursuant to
2 those laws by injunction in the district courts, which remedy
3 shall be in addition to the civil and criminal penalties
4 provided in the LPG and CNG Act. The chief and the inspectors
5 of the bureau may issue citations for violation of the LPG and
6 CNG Act. "

7 Section 52. Section 70-5-21 NMSA 1978 (being Laws 1947,
8 Chapter 214, Section 22, as amended) is amended to read:

9 "70-5-21. MISDEMEANOR. -- Any person violating any
10 provision of the LPG and CNG Act or the rules, regulations or
11 orders of the bureau or the [~~commission~~] division issued
12 pursuant to that act is guilty of a misdemeanor and shall be
13 punished by a fine levied in a magistrate court of not less
14 than fifty dollars (\$50.00) or more than five hundred dollars
15 (\$500) or by imprisonment for not more than ninety days or
16 both. "

17 Section 53. EFFECTIVE DATE. -- The effective date of the
18 provisions of this act is July 1, 2001.