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HOUSE BILL 431

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Rick Little

AN ACT

RELATING TO CONSTRUCTION INDUSTRIES; LICENSING PRIVATE
INSPECTION COMPANIES; ALLOWING COMPANIES TO PROVIDE PRIVATE
INSPECTORS FOR GOVERNMENTS AND FOR CONTRACTORS AND HOMEOWNERS;
REQUIRING THE EMPLOYMENT OF CERTIFIED BUILDING OFFICIALS;
LIMITING EMPLOYMENT OF INSPECTORS; CLARIFYING PROVISIONS OF THE
CONSTRUCTION INDUSTRIES LICENSING ACT; MAKING TECHNICAL
AMENDMENTS.

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

SECTION 1. Section 60-13-1.1 NMSA 1978 (being Laws 1967,
Chapter 199, Section 4, as amended) is amended to read:

"60-13-1.1. PURPOSE OF THE ACT.--The purpose of the
Construction Industries Licensing Act is to promote the general
welfare of the people of New Mexico by providing for the
protection of life and property by adopting and enforcing codes

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1 and standards for construction, alteration, installation,
2 connection, demolition and repair work. To effect this
3 purpose, it is the intent of the legislature that:

4 A. examination, licensing and certification of the
5 occupations and trades within the jurisdiction of the
6 Construction Industries Licensing Act be such as to ensure or
7 encourage the highest quality of performance and to require
8 compliance with approved codes and standards and be, to the
9 maximum extent possible, uniform in application, procedure and
10 enforcement;

11 B. to provide more inspection resources for
12 governments, the division shall license private inspection
13 companies to perform inspection services for governments;
14 perform inspections for licensed contractors and homeowners to
15 enforce and improve building safety; ensure contractor
16 compliance with laws, codes and standards; and provide for a
17 more efficient and cost-effective construction process for
18 governments, contractors and homeowners;

19 [~~B.~~] C. there be eliminated the wasteful and
20 inefficient administrative practices of dual licensing,
21 duplication of inspection, nonuniform classification and
22 examination of closely related trades or occupational
23 activities and jurisdictional conflicts; and

24 [~~C.~~] D. contractors and private inspection
25 companies be required to furnish and maintain evidence of

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1 responsibility."

2 SECTION 2. Section 60-13-2 NMSA 1978 (being Laws 1967,
3 Chapter 199, Section 2, as amended by Laws 2013, Chapter 142,
4 Section 1 and by Laws 2013, Chapter 153, Section 1) is amended
5 to read:

6 "60-13-2. GENERAL DEFINITIONS.--As used in the
7 Construction Industries Licensing Act:

8 A. "division" means the construction industries
9 division of the regulation and licensing department;

10 B. "trade bureau", "jurisdiction" and "trade bureau
11 jurisdiction" mean the electrical bureau, the mechanical
12 bureau, the general construction bureau or the liquefied
13 petroleum gas bureau of the division;

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

19 D. "person" includes an individual, firm,
20 partnership, corporation, association or other organization, or
21 any combination thereof;

22 E. "qualifying party" means ~~[an individual]~~ a
23 person who submits to the examination for a ~~[license]~~
24 certificate of qualification to be issued under the
25 Construction Industries Licensing Act and who is responsible

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1 for ~~[the licensee's]~~ a licensed contractor's compliance with
2 the requirements of that act and with the rules, ~~[regulations]~~
3 codes and standards adopted and promulgated in accordance with
4 that act;

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

7 G. "journeyman" means ~~[an individual]~~ a person who
8 is properly certified by the electrical bureau or the
9 mechanical bureau, as required by law, to engage in or work at
10 the certified trade;

11 H. "apprentice" means ~~[an individual]~~ a person who
12 is engaged, as ~~[the individual's]~~ that person's principal
13 occupation, in learning and assisting in a trade;

14 I. "wages" means compensation paid to ~~[an~~
15 ~~individual]~~ a person by an employer from which taxes are
16 required to be withheld by federal and state law;

17 J. "public use" means the use or occupancy of a
18 structure, facility or manufactured commercial unit to which
19 the general public, as distinguished from residents or
20 employees, has access;

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

22 L. "building" means a structure built for use or
23 occupancy by persons or property, including manufactured
24 commercial units and modular homes or premanufactured homes
25 designed to be placed on permanent foundations whether mounted

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1 on skids or permanent foundations or whether constructed on or
2 off the site of location;

3 M. "inspection agency" means a [~~firm, partnership,~~
4 ~~corporation, association or any combination thereof~~] person
5 approved in accordance with [~~regulations~~] rules promulgated by
6 the division as having the personnel and equipment available to
7 adequately inspect for the proper construction of manufactured
8 commercial units, modular homes or premanufactured homes;

9 N. "director" means the administrative head of the
10 division;

11 O. "chief" means the administrative head of a trade
12 bureau;

13 P. "commission" means the construction industries
14 commission;

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

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1 length that is used for nonresidential purposes. "Manufactured
2 commercial unit" does not include modular or premanufactured
3 homes, built to a nationally recognized standard adopted by the
4 commission and designed to be permanently affixed to real
5 property;

6 R. "code" means a body or compilation of provisions
7 or standards adopted by the commission that govern contracting
8 or some aspect of contracting; that provide for safety and
9 protection of life and health; and that are published by a
10 nationally recognized standards association;

11 S. "inspector" means a person certified by the
12 division and certified by one or more trade bureaus to conduct
13 inspections of permitted work to ensure that all work performed
14 by a contractor or the homeowner complies with the applicable
15 code;

16 T. "statewide inspector's certificate" means a
17 certificate that enables an inspector to conduct inspections in
18 one or more trade bureau jurisdictions for [~~the state or any~~
19 ~~county, municipality or other political subdivision~~] a
20 government or private inspection company that has a certified
21 building official in its employ; [~~and~~]

22 U. "certified building official" means an employee
23 of [~~any county, municipality or other political subdivision~~] a
24 government or private inspection company who has a broad
25 knowledge of the construction industry, holds a current

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1 nationally recognized code organization certified building
2 official certificate and has:

3 (1) been a practicing inspector or practicing
4 contractor for at least five years; or

5 (2) held a management position in a
6 construction-related company or construction organization for
7 at least five of the past ten years;

8 V. "private inspection company" means a private
9 enterprise that is licensed by the division to apply for
10 permits and conduct inspections of permitted work to ensure
11 that all work performed by a contractor or homeowner complies
12 with applicable codes and approved plans, including inspections
13 of manufactured commercial units, modular homes or pre-
14 manufactured homes, and that reports to the appropriate
15 governmental jurisdiction; and

16 W. "government" means the state or a county,
17 municipality or other political subdivision."

18 SECTION 3. Section 60-13-8 NMSA 1978 (being Laws 1967,
19 Chapter 199, Section 12, as amended) is amended to read:

20 "60-13-8. DIVISION--EMPLOYEES--EQUIPMENT AND SUPPLIES.--

21 A. The division shall employ personnel, procure
22 equipment and supplies and assemble records as necessary to
23 carry out the provisions of the Construction Industries
24 Licensing Act.

25 B. ~~Any~~ A person who is employed or placed under

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1 contract by the division or by [~~any county or municipality for~~
2 ~~the purpose of carrying~~] another government to carry out the
3 provisions of the Construction Industries Licensing Act and who
4 holds [~~any~~] a contractor's license or certificate of competence
5 issued by the division shall, as a condition of employment or
6 contract, surrender the contractor's license or certificate of
7 competence to the division to be held in inactive status. The
8 division shall place the license or certificate on hold
9 effective from the date the employment or contract begins until
10 the date the employment or contract terminates. The license or
11 certificate shall remain in effect after the hold period for
12 the same number of days as it would have remained in effect but
13 for the hold.

14 C. Employees of the division shall not engage in
15 any business activity that would be considered contracting
16 pursuant to the Construction Industries Licensing Act."

17 SECTION 4. Section 60-13-9 NMSA 1978 (being Laws 1978,
18 Chapter 73, Section 1, as amended by Laws 2013, Chapter 142,
19 Section 2 and by Laws 2013, Chapter 153, Section 2) is amended
20 to read:

21 "60-13-9. DIVISION--DUTIES.--The division shall:

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

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1 licenses;

2 B. issue, under the director's signature,
3 contractor's licenses, [~~and~~] certificates of qualification and
4 private inspection company licenses in accordance with the
5 provisions of the Construction Industries Licensing Act;

6 C. submit a list of all contractor's licenses,
7 statewide inspector's certificates, [~~and~~] certificates of
8 qualification and private inspection company licenses issued by
9 the division to the commission for review and approval;

10 D. resolve jurisdictional conflicts by assigning
11 specific responsibility to the appropriate bureau for preparing
12 examinations and for certifying and inspecting each occupation,
13 trade or activity covered by the Construction Industries
14 Licensing Act;

15 E. establish and collect fees authorized to be
16 collected by the division pursuant to the Construction
17 Industries Licensing Act;

18 F. adopt all building codes and minimum standards
19 as recommended by the trade bureaus and approved by the
20 commission so that the public welfare is protected, uniformity
21 is promoted and conflicting provisions are avoided;

22 G. with approval of the superintendent of
23 regulation and licensing, employ such personnel as the division
24 deems necessary for the exclusive purpose of investigating
25 violations of the Construction Industries Licensing Act,

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1 enforcing Sections 60-13-12 and 60-13-38 NMSA 1978 and
2 instituting legal action in the name of the division to
3 accomplish the provisions of Section 60-13-52 NMSA 1978;

4 H. approve, disapprove or revise the recommended
5 budget of each trade bureau and submit the budgets of those
6 bureaus, along with its own budget, to the regulation and
7 licensing department;

8 I. approve, disapprove or revise and submit to the
9 regulation and licensing department all requests of the trade
10 bureaus for emergency budget transfers;

11 J. make an annual report to the superintendent of
12 regulation and licensing and develop a policy manual concerning
13 the operations of the division and the trade bureaus. The
14 report shall also contain the division's recommendations for
15 legislation it deems necessary to improve the licensing and
16 technical practices of the construction and LP gas industries
17 and to protect persons, property and agencies of the state and
18 its political subdivisions;

19 K. adopt, subject to commission approval, rules
20 [~~and regulations~~] necessary to carry out the provisions of the
21 Construction Industries Licensing Act and the LPG and CNG Act;

22 L. maintain a complete record of all applications;
23 all licenses issued, renewed, canceled, revoked and suspended;
24 and all fines and penalties imposed by the division or
25 commission and may make that information available to certified

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1 code jurisdictions;

2 M. furnish, upon payment of a reasonable fee
3 established by the division, a certified copy of any license
4 issued or of the record of the official revocation or
5 suspension thereof. Such certified copy shall be prima facie
6 evidence of the facts stated therein; and

7 N. publish a list of contractors, with their
8 addresses and classifications, licensed by the division. The
9 list shall be furnished without charge to such public
10 officials, public bodies or public works and building
11 departments as the division deems advisable. The list shall be
12 published [~~annually and supplements shall be provided~~] at least
13 quarterly on the division's website and updated more frequently
14 as the division deems necessary. [~~Copies~~] A paper copy of the
15 published list [~~and supplements~~] shall be furnished to any
16 person upon request and payment of a reasonable fee established
17 by the division."

18 SECTION 5. Section 60-13-11 NMSA 1978 (being Laws 1967,
19 Chapter 199, Section 14, as amended) is amended to read:

20 "60-13-11. DIVISION OR COMMISSION--POWERS.--The division
21 or the commission may:

22 A. sue and be sued, issue subpoenas and compel the
23 attendance of witnesses and the production of documents,
24 records and physical exhibits in any hearing;

25 B. administer oaths;

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

3 D. compel minimum code compliance in all certified
4 code jurisdictions and political subdivisions; and

5 E. investigate and prosecute code and license
6 violations in any code jurisdictions in New Mexico."

7 SECTION 6. Section 60-13-32 NMSA 1978 (being Laws 1967,
8 Chapter 199, Section 35, as amended) is amended to read:

9 "60-13-32. TRADE BUREAUS--DEFINITIONS.--As used in the
10 Construction Industries Licensing Act:

11 A. "electrical wiring" means all wiring,
12 conductors, fixtures, devices, conduits, appliances or other
13 equipment, including generating equipment such as solar
14 electricity generating equipment of not over ten kilowatt
15 capacity, used in connection with the general distribution or
16 use of electrical energy;

17 B. "plumbing" means the installing, altering and
18 repairing of all plumbing fixtures, fixture traps and soil,
19 waste, supply and vent pipes, with their devices, appurtenances
20 and connections, through which water, waste, sewage, oil and
21 air are carried, when done within the property lines of the
22 building or structure to be served by the plumbing or to the
23 point of connection with the utility system. This subsection
24 shall not be construed as prohibiting the installation by a
25 "fixed works" licensee of service lines from the utility system

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1 to a point five feet outside the building or structure to be
2 served by the plumbing;

3 C. "fixtures" includes closet bowls, lavatories,
4 bathtubs, showers, kitchen sinks, laundry trays, hot water
5 tanks, softeners, urinals, bidets, service sinks, shower pans,
6 drink fountains, water compressors, water coolers, septic tanks
7 or similar systems of sewage disposal and such other similar
8 fixtures used in plumbing as designated by the mechanical
9 bureau;

10 D. "gas fitting" means the installing, altering and
11 repairing of consumers' gas piping and the installation or
12 safety-related repair of appliances [~~utilizing~~] using natural
13 gas as fuel and their appurtenances in or upon premises of the
14 consumers;

15 E. "softener" or "water conditioner" means any
16 appliance, apparatus, fixture and equipment that is designed to
17 soften, filter or change the mineral content of water, whether
18 permanent or portable; and

19 F. "certificate of competence" means evidence of
20 competence issued by the division to a journeyman electrician,
21 journeyman plumber, journeyman gas fitter, journeyman pipe
22 fitter or journeyman welder working on pipelines, collection
23 lines or compressor stations."

24 SECTION 7. Section 60-13-41 NMSA 1978 (being Laws 1967,
25 Chapter 199, Section 49, as amended by Laws 2013, Chapter 142,
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1 Section 4 and by Laws 2013, Chapter 153, Section 4) is amended
2 to read:

3 "60-13-41. INSPECTORS--DESIGNATED INSPECTION
4 AGENCIES--PRIVATE INSPECTION COMPANIES.--

5 A. The division may employ state inspectors [~~shall~~
6 ~~be employed by the director~~] or may contract with a private
7 inspection company to carry out state inspections.

8 B. Qualifications for inspectors shall be
9 prescribed by the commission, and applicants shall submit to an
10 appropriate background check as prescribed by the commission.
11 Inspectors shall meet the minimum continuing education
12 requirements as prescribed by the nationally recognized code
13 organization for each trade bureau jurisdiction and provide
14 proof of such credits to the division upon application for or
15 renewal of certification.

16 C. The division shall certify and issue a statewide
17 inspector's certificate to any person who meets the
18 requirements established by the nationally recognized code
19 organization for certification. The certificate shall list all
20 trade bureaus for which the inspector is certified to inspect
21 and shall be valid for a term of three years.

22 D. An inspector or statewide inspector shall be
23 employed by a [~~county, municipality or other political~~
24 ~~subdivision~~] government or by a private inspection company in
25 order to inspect work under permits issued in the trade bureau

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1 for which the inspector or statewide inspector is certified;
2 provided that the [~~county, municipality or other political~~
3 ~~subdivision~~] government or private inspection company has a
4 certified building official in its employ and the government
5 has adopted the current minimum code standards as established
6 by the commission. A government shall publish any codes in
7 their entirety that it has adopted that are in excess of state
8 codes.

9 E. Except as provided in Subsection F of this
10 section, the state or its agent, which may be a private
11 inspection company, shall conduct all inspections if [~~a county,~~
12 ~~municipality or other political subdivision~~] another government
13 does not have a certified building official in its employ.

14 F. A [~~county, municipality or other political~~
15 ~~subdivision~~] government may enter into a memorandum of
16 understanding to share a certified building official and
17 inspectors operating under that certified building official
18 with another [~~county, municipality or other political~~
19 ~~subdivision provided that the certified building official is~~
20 ~~employed in the same county, in an adjacent county, within one~~
21 ~~hundred miles of the county, municipality or other political~~
22 ~~subdivision or as approved by the division~~] government or may
23 contract with a private inspection company for the services of
24 a certified building official and inspectors. Memoranda of
25 understanding and contracts pursuant to this subsection shall

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1 be listed on the division's website.

2 G. A person currently acting in the capacity of a
3 certified building official may continue to act in that
4 capacity and shall have five years from the effective date of
5 this 2013 act to become a certified building official as
6 prescribed by the Construction Industries Licensing Act.

7 H. When a certified building official leaves the
8 employ of a [~~county, municipality or other political~~
9 ~~subdivision~~] government, the plan review, permitting and
10 inspections overseen by that certified building official shall
11 transfer to the state unless the [~~county, municipality or other~~
12 ~~political subdivision~~] government, within sixty days, or a
13 longer period as approved by the division, replaces that
14 certified building official or enters into a memorandum of
15 understanding or contract pursuant to Subsection F of this
16 section. When a certified building official leaves the employ
17 of a private inspection company, the company has sixty days, or
18 a longer period as approved by the division, to replace that
19 certified building official.

20 [~~H.~~] I. The division may appoint inspection
21 agencies or private inspection companies to inspect the
22 construction, installation, alteration or repair of
23 manufactured commercial units, modular homes and
24 premanufactured homes, including those manufacturers whose
25 business premises are without the state, to ensure that the New

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1 Mexico standards of construction and installation are adhered
2 to and that the quality of construction meets all New Mexico
3 codes and standards. If the inspection agency or private
4 inspection company has no place of business within the state,
5 it shall file a written statement with the secretary of state
6 setting forth its name and business address and designating the
7 secretary of state as its agent for the service of process.

8 ~~[F.]~~ J. The division shall, with the approval of
9 the commission, establish qualifications for inspectors and
10 statewide inspectors certified to inspect in more than one
11 bureau's jurisdiction.

12 ~~[J.]~~ K. The director shall assign an investigator
13 to investigate the merits of every complaint brought against an
14 inspector, inspection agency or private inspection company and
15 report to the commission within ten days."

16 **SECTION 8.** Section 60-13-42 NMSA 1978 (being Laws 1967,
17 Chapter 199, Section 50, as amended) is amended to read:

18 "60-13-42. AUTHORITY OF INSPECTORS--LIMITATION.--

19 A. A state-certified inspector, including state-
20 certified inspectors employed by a private inspection company,
21 may, during reasonable hours, enter any building or go upon any
22 premises in the discharge of the inspector's official duties
23 [~~for the purpose of making~~] to make an inspection of work
24 performed or [~~for the purpose of testing~~] to test any
25 installation authorized within the jurisdiction of the

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1 inspector's trade certification. The inspector may cut or
2 disconnect, or have cut or disconnected in cases of emergency,
3 an installation or device when necessary for safety to life or
4 property or where the installation may interfere with the work
5 of a fire department. Public utilities, rural electric
6 cooperatives and utility departments of counties or
7 municipalities shall cooperate with the requests of inspectors.

8 B. The inspector may disconnect or order the
9 discontinuance of service to any installation, device,
10 appliance or equipment found to be dangerous to life or
11 property because it is defective or is incorrectly installed,
12 until the installation, device, appliance or equipment is made
13 safe and is approved by the inspector.

14 C. The inspector may order the correction of any
15 defects or any incorrect installation that prompted the
16 disconnection and discontinuance of service.

17 D. In all cases where disconnection is made, a
18 notice shall be attached by the inspector to the installation,
19 device, appliance or equipment disconnected, which notice shall
20 state that the same has been disconnected by or on order of the
21 inspector and the reason for the disconnection. It is unlawful
22 for a person to remove the notice or to use the installation,
23 device, appliance or equipment without authorization of an
24 inspector.

25 E. The division shall by [~~regulation~~] rule adopt

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1 official inspection stickers or medallions [~~for the purpose of~~
2 ~~identifying~~] to identify those modular homes and
3 premanufactured homes that have been inspected and found to
4 comply with all requirements of the state codes and standards.
5 State inspection and acceptance for use of modular homes and
6 premanufactured homes shall exclusively apply to the use and
7 occupancy of such dwellings in the state and in any of its
8 political subdivisions, subject to the requirements of local
9 planning and zoning ordinances and ordinances requiring permits
10 and inspections for foundations, electrical and mechanical
11 hookups or other safety or sanitary requirements.

12 F. Certified building officials and inspectors
13 employed by governments shall not be employed by private
14 inspection companies."

15 SECTION 9. Section 60-13-44 NMSA 1978 (being Laws 1967,
16 Chapter 199, Section 52, as amended) is amended to read:

17 "60-13-44. TRADE BUREAUS--STANDARDS--CONFLICTS.--

18 A. The electrical bureau shall recommend to the
19 commission minimum standards for the installation or use of
20 electrical wiring. The recommendations shall substantially
21 embody the applicable provisions of an electrical code for
22 safety to life and property promulgated by a nationally
23 recognized association and developed through an open, balanced
24 consensus process.

25 B. The mechanical bureau shall recommend to the

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1 commission minimum standards for the installation of all
2 fixtures, consumers' gas pipe, appliances and materials
3 installed in the course of a mechanical installation. The
4 recommendations shall be in substantial conformity with codes
5 and standards that are developed through an open, balanced
6 consensus process. Manufacturers may choose the independent
7 certification organization they wish to certify their products
8 if the certification organization is accredited by the American
9 national standards institute or other accreditation
10 organization selected by the commission.

11 C. The general construction bureau shall recommend
12 to the commission minimum standards for the construction,
13 alteration or repair of buildings, except for those activities
14 within the jurisdiction of the electrical bureau or the
15 mechanical bureau. The recommendations shall substantially
16 embody the applicable provisions of a nationally recognized
17 building code that is developed through an open, balanced
18 consensus process and shall give due regard to physical,
19 climatic and other conditions peculiar to New Mexico. The
20 standards shall include the authority to permit or deny
21 occupancy of existing and new buildings or structures and
22 authority to accept or deny the use of materials manufactured
23 within or without the state. The general construction bureau
24 may set minimum fees or charges for conducting tests to verify
25 claims or specifications of manufacturers.

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1 D. The general construction bureau shall recommend
2 to the commission additional specifications for any public
3 building constructed in the state through expenditure of state,
4 county or municipal funds, bonds and other revenues, which
5 specifications shall embody standards making the building
6 accessible to persons who have a physical disability, and the
7 specifications shall conform substantially with those contained
8 in a nationally recognized standard for making public
9 facilities accessible to persons with a physical disability
10 that is developed through an open, balanced consensus process.
11 All orders and rules recommended by the general construction
12 bureau and adopted by the commission under the provisions of
13 this section shall be printed and distributed to all licensed
14 contractors, architects and engineers and to the governor's
15 commission on disability. The orders and rules shall take
16 effect on a date fixed by the commission, which shall not be
17 less than thirty days after their adoption by the commission,
18 and shall have the force of law.

19 E. The general construction bureau shall have the
20 right of review of all specifications of public buildings and
21 the responsibility to ensure compliance with the adopted
22 standards.

23 F. ~~[All political subdivisions of the state]~~
24 Governments and private inspection companies are subject to the
25 provisions of codes adopted and approved under the Construction

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1 Industries Licensing Act. Such codes constitute a minimum
2 requirement for the codes of political subdivisions. If a
3 government adopts codes with minimum requirements in excess of
4 state codes, it shall publish those codes in their entirety.

5 G. The trade bureaus within their respective
6 jurisdictions shall recommend to the commission standards that
7 are developed through an open, balanced consensus process for
8 the installation or use of electrical wiring, the installation
9 of all fixtures, consumers' gas pipe, appliances and materials
10 installed in the course of mechanical installation and the
11 construction, alteration or repair of all buildings intended
12 for use by persons with a physical disability or persons
13 requiring special facilities to accommodate the aged. The
14 recommendations shall give due regard to physical, climatic and
15 other conditions peculiar to New Mexico.

16 H. The trade bureaus within their respective
17 jurisdictions shall recommend to the commission standards for
18 the construction, alteration, repair, use or occupancy of
19 manufactured commercial units, modular homes and
20 premanufactured homes. The recommendations shall substantially
21 embody the applicable provisions or standards for the safety to
22 life, health, welfare and property approved by the nationally
23 recognized standards association and developed through an open,
24 balanced consensus process and shall give due regard to
25 physical, climatic and other conditions peculiar to New Mexico.

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1 Wherever existing state codes or standards conflict with the
2 codes and standards adopted by the commission under the
3 provisions of this subsection, the provisions of the applicable
4 New Mexico building codes adopted pursuant to the Construction
5 Industries Licensing Act and the LPG and CNG Act in effect at
6 the applicable time shall exclusively apply and control, except
7 for codes and standards for mobile housing units.

8 I. Modular homes and premanufactured homes in
9 existence at the time of the effective date of the Construction
10 Industries Licensing Act shall have their use or occupancy
11 continued if such use or occupancy was legal on the effective
12 date of that act, provided such continued use or occupancy is
13 not dangerous to life. Any change in the use or occupancy or
14 any major alteration or repair of a modular home or
15 premanufactured home shall comply with all codes and standards
16 adopted under the Construction Industries Licensing Act.

17 J. The commission shall review all recommendations
18 made under the provisions of this section and shall by rule
19 adopt standards and codes that substantially comply with the
20 requirements of this section that apply to the recommendations
21 of the trade bureaus."

22 **SECTION 10.** Section 60-13-45 NMSA 1978 (being Laws 1967,
23 Chapter 199, Section 53, as amended) is amended to read:

24 "60-13-45. TRADE BUREAUS--PRIVATE INSPECTION COMPANIES--
25 PERMITS.--

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1 A. The trade bureaus within their respective trade
2 jurisdictions may require a permit to be secured and
3 conspicuously posted prior to any construction, installation,
4 alteration, repair or addition to or within any building,
5 structure or premises.

6 B. No permit shall be required for the performance
7 of any of the following classes of work:

8 (1) minor repairs, replacement of lamps, the
9 connection of portable electrical equipment to suitable
10 receptacles [~~which~~] that are permanently installed, minor
11 repairs or replacement of or to faucets, taps or jets or
12 connection of portable equipment to suitable connections or
13 inlets [~~which~~] that have been permanently installed;

14 (2) installation of temporary wiring for
15 testing electrical equipment or apparatus or installation of
16 temporary fixtures or devices for testing fixtures, equipment,
17 apparatus or appliances;

18 (3) installation, alteration or repair of
19 electrical equipment for the operation of signals or the
20 transmission of intelligence by wire; [~~and~~] or

21 (4) installation or work [~~which~~] that is done
22 after regular business hours or during a holiday when immediate
23 action is imperative to safeguard life, health or property,
24 provided the person making the installation or performing the
25 work applies for a permit covering the installation or work not

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1 later than the next business day.

2 C. If a permit has been issued for construction of
3 a new residential building, that residential building shall not
4 be occupied until a certificate of occupancy has been issued
5 certifying compliance with all codes and standards.

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

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1 or from establishing a schedule of fees to be paid by an
2 applicant for a permit.

3 E. In the event that the division assumes
4 inspections of a municipal or county jurisdiction, the permit
5 fees shall be paid directly to the division.

6 F. Pursuant to a contract with a government, a
7 private inspection company may:

8 (1) inspect the work for which a permit was
9 issued;

10 (2) use the same forms and request methods as
11 used by the government; and

12 (3) remit fees collected to the government in
13 accordance with the conditions of the contract. A private
14 inspection company may charge and keep fees in addition to the
15 government fees for performing inspections.

16 G. Pursuant to a contract with a contractor
17 licensed to perform the type of work to be undertaken by the
18 contractor, a private inspection company may:

19 (1) request a permit upon affidavit authorized
20 electronically or signed by the qualifying party and payment of
21 all initial inspection fees and service charges; and

22 (2) inspect the work of the contractor
23 pursuant to the permit.

24 H. Upon completion of all required inspections, the
25 private inspection company shall prepare a certificate of

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1 compliance, on a form acceptable to the government, summarizing
2 the inspections performed, including a written representation,
3 under oath as applicable, that the stated inspections have been
4 performed and that, to the best of the private inspection
5 company's knowledge and belief, the permit-required work
6 inspected complies with approved plans and applicable codes,
7 and a declaration that any additional inspection fees and
8 service charges have been paid.

9 I. A contractor or homeowner who begins the
10 inspection process under a permit with the government or with a
11 private inspection company shall continue with the same
12 inspection provider until the final inspection has been
13 completed. To change the inspection provider once a permit is
14 issued requires the permission of the division."

15 SECTION 11. A new section of the Construction Industries
16 Licensing Act is enacted to read:

17 "[NEW MATERIAL] PRIVATE INSPECTION COMPANY--LICENSING.--

18 A. A license shall not be issued by the division to
19 a private inspection company unless the director is satisfied
20 that the applicant is or has employed a certified building
21 official and the applicant has satisfied the requirements of
22 Subsection B of this section.

23 B. An applicant for a private inspection company
24 license shall:

25 (1) demonstrate proof of responsibility as

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1 provided in the Construction Industries Licensing Act;

2 (2) demonstrate familiarity with the rules
3 promulgated by the commission and division and that the
4 applicant has employed statewide inspectors and inspectors who
5 are familiar with the rules promulgated by the commission and
6 division;

7 (3) include in the application the certificate
8 of the applicant's certified building official;

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

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

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

22 (7) comply with any additional procedures and
23 rules that are established by the commission relating to
24 issuance of licenses; and

25 (8) have had four years, within the ten years

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1 immediately prior to application, of practical or related trade
2 experience dealing specifically with the type of construction
3 or inspection services or its equivalent; provided that the
4 commission may waive the work experience requirement of this
5 paragraph when the qualifying party has been certified in New
6 Mexico with the same license classification within the ten
7 years immediately prior to application.

8 C. The division may by rule provide for license
9 fees that are no higher than those charged to general
10 contractors.

11 D. A certified building official shall not work for
12 more than one private inspection company at the same time
13 unless the companies have at least thirty percent common
14 ownership."

15 SECTION 12. Section 60-13-49 NMSA 1978 (being Laws 1967,
16 Chapter 199, Section 57, as amended) is amended to read:

17 "60-13-49. PROOF OF RESPONSIBILITY.--

18 A. [~~No~~] An applicant for a contractor's license or
19 for renewal of a contractor's license shall not be issued a
20 license until the director determines that the applicant
21 furnishes proof of responsibility pursuant to Subsection B of
22 this section.

23 B. Proof of responsibility shall be a bond of ten
24 thousand dollars (\$10,000) acceptable to the director and
25 underwritten by a corporate surety authorized to transact

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1 business in New Mexico. Such bond shall meet the following
2 conditions:

3 (1) payments from a bond required pursuant to
4 this section shall only be used to cure code violations caused
5 by a licensee, certified by the division and not corrected by
6 the licensee. Claims against the bond shall be made within two
7 years following final inspection by the governmental entity
8 having jurisdiction over code enforcement or within two years
9 of issuance of a certificate of occupancy for the construction
10 project, whichever is earlier;

11 (2) the total aggregate liability of the
12 surety for all claims shall be limited to the face amount of
13 the bond;

14 (3) the bond carrier shall provide to the
15 division and to the licensee thirty days' prior written notice
16 of intent to cancel a bond required pursuant to this section.
17 The surety for such a bond shall remain liable under the
18 provisions of the bond for all obligations of the principal
19 pertaining to bond terms that occur before the bond is
20 canceled, expires or otherwise becomes ineffective;

21 (4) failure to maintain the bond for the
22 period required by law is cause for revocation of the license;
23 and

24 (5) if the bond is canceled, expires or
25 otherwise becomes ineffective during the period of a license,

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1 the division shall notify the licensee that a new bond is
2 required. If the licensee has not provided proof of a new bond
3 before the fortieth day after the date on which the bond was
4 canceled, expired or otherwise became ineffective, the license
5 shall be subject to revocation for failure of proof of
6 responsibility.

7 C. Proof of responsibility for private inspection
8 company licensees shall be established by rule of the
9 commission."

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