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SENATE BILL 352

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

INTRODUCED BY

George K. Munoz

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 licensed by the division to apply for permits and
10 conduct inspections of permitted work to ensure that all work
11 performed by a contractor or homeowner complies with applicable
12 codes and approved plans, including inspections of manufactured
13 commercial units, modular homes or pre-manufactured homes, and
14 that reports to the appropriate governmental jurisdiction; and

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

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

19 "60-13-8. DIVISION--EMPLOYEES--EQUIPMENT AND SUPPLIES.--

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

24 B. ~~Any~~ A person employed or placed under contract
25 by the division or by ~~any county or municipality for the~~

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

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

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

20 "60-13-9. DIVISION--DUTIES.--The division shall:

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

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

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

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

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

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

21 G. with approval of the superintendent of
22 regulation and licensing, employ such personnel as the division
23 deems necessary for the exclusive purpose of investigating
24 violations of the Construction Industries Licensing Act,
25 enforcing Sections 60-13-12 and 60-13-38 NMSA 1978 and

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1 instituting legal action in the name of the division to
2 accomplish the provisions of Section 60-13-52 NMSA 1978;

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

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

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

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

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

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

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

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

19 "60-13-11. DIVISION OR COMMISSION--POWERS.--The division
20 or the commission may:

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

24 B. administer oaths;

25 C. adopt and use a seal for authentication of its

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1 records, processes and proceedings;

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

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

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

8 "60-13-32. TRADE BUREAUS--DEFINITIONS.--As used in the
9 Construction Industries Licensing Act:

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

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

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1 served by the plumbing;

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

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

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

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

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

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1 to read:

2 "60-13-41. INSPECTORS--DESIGNATED INSPECTION
3 AGENCIES--PRIVATE INSPECTION COMPANIES.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 "60-13-42. AUTHORITY OF INSPECTORS--LIMITATION.--

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

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

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

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

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

24 E. The division shall by ~~[regulation]~~ rule adopt
25 official inspection stickers or medallions ~~[for the purpose of~~

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

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

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

16 "60-13-44. TRADE BUREAUS--STANDARDS--CONFLICTS.--

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

24 B. The mechanical bureau shall recommend to the
25 commission minimum standards for the installation of all

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

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

25 D. The general construction bureau shall recommend

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

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

22 F. ~~[All political subdivisions of the state]~~
23 Governments and private inspection companies are subject to the
24 provisions of codes adopted and approved under the Construction
25 Industries Licensing Act. Such codes constitute a minimum

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

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

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

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

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

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

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

23 "60-13-45. TRADE BUREAUS--PRIVATE INSPECTION COMPANIES--
24 PERMITS.--

25 A. The trade bureaus within their respective trade

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

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

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

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

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

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

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

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

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1 applicant for a permit.

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

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

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

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

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

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

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

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

23 H. Upon completion of all required inspections, the
24 private inspection company shall prepare a certificate of
25 compliance, on a form acceptable to the government, summarizing

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 "60-13-49. PROOF OF RESPONSIBILITY.--

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

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

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1 conditions:

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

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

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

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

23 (5) if the bond is canceled, expires or
24 otherwise becomes ineffective during the period of a license,
25 the division shall notify the licensee that a new bond is

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

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

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