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SENATE BILL 105

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

George K. Munoz

AN ACT

RELATING TO CONSTRUCTION INDUSTRIES; CHANGING THE NAME OF THE
CONSTRUCTION INDUSTRIES LICENSING ACT TO THE CONSTRUCTION
INSPECTION AND LICENSING ACT; REORGANIZING PROVISIONS OF
CHAPTER 60, ARTICLE 13 NMSA 1978; ADDING DEFINITIONS; CREATING
THE EDUCATIONAL OUTREACH AND INVESTIGATIONS FUND; CREATING THE
COMPLIANCE RECOVERY FUND; ESTABLISHING REQUIREMENTS FOR CLAIMS
FROM THE COMPLIANCE RECOVERY FUND; PROVIDING AUTHORIZATION FOR
AND IMPOSING FEES; ADDING CAUSES FOR WHICH A LICENSEE OR
CERTIFICATE HOLDER MAY BE DISCIPLINED; PROVIDING PENALTIES;
AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978;
MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

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

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1 "60-13-1. SHORT TITLE.--Chapter 60, Article 13 NMSA 1978
2 may be cited as the "Construction [~~Industries~~] Inspection and
3 Licensing Act"."

4 SECTION 2. Section 60-13-1.1 NMSA 1978 (being Laws 1967,
5 Chapter 199, Section 4, as amended) is amended to read:

6 "60-13-1.1. PURPOSE OF THE ACT.--The purpose of the
7 Construction [~~Industries~~] Inspection and Licensing Act is to
8 promote the general welfare of the people of New Mexico by
9 providing for the protection of life and property by adopting
10 and enforcing codes and standards for construction excavation,
11 alteration, installation, connection, demolition and repair
12 work. To effect this purpose, it is the intent of the
13 legislature that:

14 A. examination, licensing and certification of the
15 occupations and trades within the jurisdiction of the
16 Construction [~~Industries~~] Inspection and Licensing Act [~~be such~~
17 ~~as to~~] ensure [~~or~~] and encourage the highest quality of
18 performance and [~~to~~] require compliance with approved codes and
19 standards and be, to the maximum extent possible, uniform in
20 application, procedure and enforcement; and

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

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1 ~~G. contractors be required to furnish and maintain~~
2 ~~evidence of responsibility]."~~

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

7 "60-13-2. [NEW MATERIAL] GENERAL DEFINITIONS.--As used in
8 the Construction Inspection and Licensing Act:

9 A. "apprentice" means an individual whose principal
10 occupation is learning and assisting in an electrical or
11 mechanical-plumbing trade;

12 B. "authority having jurisdiction" means a
13 municipality, county or other political subdivision that has a
14 full service building department employing a full-time
15 certified building official and has permitting, inspection and
16 enforcement authority over the general construction, electrical
17 and mechanical-plumbing trades within its jurisdiction;

18 C. "bid" means a written or oral offer to contract;

19 D. "building" means a structure built for use or
20 occupancy by persons or property, including manufactured
21 commercial units and modular homes designed to be placed on
22 permanent foundations, structures mounted on skids and modular
23 component structures whether constructed on or off the site of
24 location, and does not include a manufactured home;

25 E. "certified building official" means a division-

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1 approved employee of the state or an authority having
2 jurisdiction with a full service building department charged
3 with the enforcement of the Construction Inspection and
4 Licensing Act and the state-adopted administrative codes for an
5 authority having jurisdiction;

6 F. "code" means provisions or standards approved by
7 the commission and adopted by the division pursuant to the
8 Construction Inspection and Licensing Act that govern
9 contracting or some aspect of contracting, including building
10 codes, that provide for safety and protection of life and
11 health and that are published by a nationally recognized
12 standards association;

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

15 H. "construction manager" means an individual who
16 coordinates, manages and makes decisions regarding the building
17 process and has authority for a project, including directing
18 contractors and subcontractors and includes a project manager;

19 I. "contracting" means undertaking, offering to
20 undertake by bid or other means or purporting to have the
21 authority to undertake, alone or through others, any activity
22 that requires a license issued by the division. Contracting
23 includes constructing, altering, repairing, installing or
24 demolishing a:

25 (1) street, road, highway, bridge, airport,

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1 parking area or project related to transportation;

2 (2) building, stadium or other structure;

3 (3) park, athletic field, golf course,
4 playground or similar recreational facility;

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

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

10 (6) sewerage, water, gas, utility or other
11 pipeline;

12 (7) electrical transmission line;

13 (8) radio, television or other tower;

14 (9) water, oil or other storage tank;

15 (10) excavating earth, earthmoving or
16 backfilling;

17 (11) heating, ventilation, air conditioning or
18 other similar mechanical works;

19 (12) electrical wiring, plumbing or plumbing
20 fixture, consumers' gas piping, gas appliances or water
21 conditioners;

22 (13) similar work, structures or installations
23 that are covered by applicable codes or standards adopted under
24 the provisions of the Construction Inspection and Licensing
25 Act; or

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1 (14) installation of modular buildings by
2 manufactured housing crossover licensees;

3 J. "contractor" means a business or public entity,
4 licensed pursuant to the Construction Inspection and Licensing
5 Act, that includes a prime contractor, a subcontractor,
6 specialty contractor or construction manager that undertakes,
7 offers to undertake by bid or other means or purports to have
8 the capacity, by itself or through others, to engage in
9 contracting;

10 K. "crossover license" means a license that is
11 issued by the division to an entity licensed by the
12 manufactured housing division of the regulation and licensing
13 department to perform installation of modular buildings;

14 L. "director" means the administrative head of the
15 division;

16 M. "division" means the construction industries
17 division of the regulation and licensing department;

18 N. "employee" means an individual who is not an
19 independent contractor and who receives wages for the
20 performance of services for a licensed contractor who pays
21 state and federal taxes on behalf of the individual;

22 O. "full service building department" means a
23 department employing a division-approved certified building
24 official and inspectors for the mechanical-plumbing, electrical
25 and general construction trades, as well as personnel to

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1 perform plan review and to investigate and respond to all
2 complaints within its jurisdiction;

3 P. "independent contractor" means a validly
4 licensed person who is working under contract to provide
5 construction services and who is not an employee;

6 Q. "inspection agency" means a firm, partnership,
7 corporation or association that in accordance with rules of the
8 division has the personnel and equipment available to
9 adequately inspect for the proper construction of manufactured
10 commercial units, modular homes or modular component
11 structures;

12 R. "inspector" means an individual certified by the
13 general, electrical or mechanical-plumbing bureau of the
14 division to conduct inspections of work that requires a permit
15 to ensure that all work performed by a contractor or a
16 homeowner complies with the applicable codes;

17 S. "inspector's certificate" means a certificate
18 issued by the division that enables an inspector to conduct
19 inspections under the authority of the general, electrical or
20 mechanical-plumbing bureau of the division for the state or for
21 an authority having jurisdiction while employed by the state or
22 an authority having jurisdiction;

23 T. "journeyman" means an individual who is
24 certified by the division's electrical or mechanical-plumbing
25 bureau, as required by law, to engage in or work in the

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1 particular trade;

2 U. "manufactured commercial unit" means a movable
3 or portable housing structure over thirty-two feet in length or
4 over eight feet in width that is constructed to be towed on its
5 own chassis and designed so as to be installed without a
6 permanent foundation for use as an office or other commercial
7 purpose and that may include one or more components that can be
8 retracted for towing purposes and subsequently expanded for
9 additional capacity, or two or more units separately towable
10 but designed to be joined into one integral unit, as well as a
11 single unit, but that does not include any movable or portable
12 housing structure over twelve feet in width and forty feet in
13 length that is used for nonresidential purposes. "Manufactured
14 commercial unit" does not include modular buildings or modular
15 component structures;

16 V. "manufactured home" means a movable or portable
17 housing structure over thirty-two feet in length or over eight
18 feet in width constructed to be towed on its own chassis and
19 designed to be installed with or without a permanent foundation
20 for human occupancy as a residence and that may include one or
21 more components that can be retracted for towing purposes and
22 subsequently expanded for additional capacity or may be two or
23 more units separately towable but designed to be joined into
24 one integral unit as well as a single unit. "Manufactured
25 home" does not include recreational vehicles or modular or

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1 premanufactured homes, built to Uniform Building Code
2 standards, designed to be permanently affixed to real property.
3 "Manufactured home" includes any movable or portable housing
4 structure over twelve feet in width and forty feet in length
5 that is used for nonresidential purposes;

6 W. "modular building" means a structure built off-
7 site in compliance with New Mexico modular rules designed to be
8 permanently installed and affixed to land;

9 X. "modular component structure" means a building
10 constructed of components built on- or off-site and assembled
11 on-site;

12 Y. "New Mexico certified building official" means a
13 person who meets the qualifications for a certified building
14 official, is employed by the division as a trade bureau chief
15 and is appointed by the director as the state's New Mexico
16 certified building official;

17 Z. "person" means an individual, firm, partnership,
18 corporation, association or other organization, or any
19 combination thereof;

20 AA. "prime contractor" means a licensed entity
21 engaged by a project owner and authorized by law to perform the
22 type of work undertaken by contract and responsible for the
23 contracted project and subcontractors;

24 BB. "public building" means a building or other
25 structure on publicly owned lands or used by the state, a

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1 municipality, county or other political subdivision of the
2 state using state, municipal or county funds, bonds or other
3 revenue;

4 CC. "public use" means the use or occupancy of a
5 structure, facility or manufactured commercial unit to which
6 the general public, as distinguished from residents or
7 employees, has access;

8 DD. "qualifying party" means an individual who has
9 achieved a classification by passing the appropriate
10 examinations that define a scope of work and who is responsible
11 for the licensee's compliance with the requirements of the
12 Construction Inspection and Licensing Act; rules issued by the
13 division pursuant to the Construction Inspection and Licensing
14 Act; and the codes and standards applicable to that
15 classification;

16 EE. "qualifying party certificate" means a
17 certificate issued by the division to the qualifying party;

18 FF. "temporary employee housing" means a modular
19 housing unit constructed out of state that contains one or more
20 sleeping units or areas not intended to be permanently
21 installed that is engineered or designed for employer-provided
22 workers;

23 GG. "tiny house" means a dwelling that meets
24 applicable building codes and that is four hundred square feet
25 or less in floor area, excluding lofts, and does not include

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1 recreational vehicles;

2 HH. "trade bureau" means the electrical bureau, the
3 mechanical-plumbing bureau, the general construction bureau or
4 the liquefied petroleum gas bureau of the division;

5 II. "trade bureau chief" means the administrative
6 head of a trade bureau;

7 JJ. "wages" means compensation paid to an
8 individual who is not acting in the capacity of an independent
9 contractor and from which compensation the person is required
10 to withhold income taxes pursuant to federal and state law; and

11 KK. "working day" means every calendar day
12 excluding Saturdays, Sundays and legal holidays."

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~~] CONTRACTING--
16 ACTIVITIES NOT REQUIRING A CONTRACTOR LICENSE.-- [~~As used in the~~
17 ~~Construction Industries Licensing Act, "contractor":~~

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

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

25 ~~(2) building, stadium or other structure;~~

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- 1 ~~(3) airport, subway or similar facility;~~
2 ~~(4) park, trail, bridle path, athletic field,~~
3 ~~golf course or similar facility;~~
4 ~~(5) dam, reservoir, canal, ditch or similar~~
5 ~~facility;~~
6 ~~(6) sewerage or water treatment facility;~~
7 ~~power generating plant; pump station; natural gas compressing~~
8 ~~station or similar facility;~~
9 ~~(7) sewerage, water, gas or other pipeline;~~
10 ~~(8) transmission line;~~
11 ~~(9) radio, television or other tower;~~
12 ~~(10) water, oil or other storage tank;~~
13 ~~(11) shaft, tunnel or mining appurtenance;~~
14 ~~(12) leveling or clearing land;~~
15 ~~(13) excavating earth;~~
16 ~~(14) air conditioning, conduit, heating or~~
17 ~~other similar mechanical works;~~
18 ~~(15) electrical wiring, plumbing or plumbing~~
19 ~~fixture, consumers' gas piping, gas appliances or water~~
20 ~~conditioners; or~~
21 ~~(16) similar work, structures or installations~~
22 ~~which are covered by applicable codes adopted under the~~
23 ~~provisions of the Construction Industries Licensing Act;~~
24 ~~B. includes subcontractor and specialty contractor;~~
25 ~~C. includes a construction manager who coordinates~~

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

7 ~~D. does not include]~~

8 A. A person shall not act as a contractor without a
9 license issued by the division and classified to cover the type
10 of work to be performed.

11 B. The following do not require a contractor
12 license:

13 (1) ~~[any]~~ a person who ~~[merely]~~ furnishes
14 materials or supplies at ~~[the]~~ a construction site without
15 fabricating them into, or ~~[consuming]~~ using them in the
16 performance of, the work of a contractor;

17 (2) ~~[any]~~ a person who performs electrical
18 work, drills, completes, tests, abandons or operates ~~[any]~~ a
19 petroleum, gas or water well ~~[or]~~ for oil or gas production;
20 services equipment and structures used in the production and
21 handling of ~~[any]~~ a product incident to the production of ~~[any]~~
22 petroleum, gas or water wells, excluding ~~[any]~~ a person
23 performing duties normally performed by electrical,
24 ~~[mechanical]~~ mechanical-plumbing or general contractors as to
25 buildings intended for human habitation; or ~~[who]~~ performs

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1 geophysical or similar exploration for oil, gas or water;

2 (3) a person performing a weatherization
3 project not exceeding two thousand dollars (\$2,000) that has
4 been approved and is administered by a federal or state agency;
5 or

6 (4) a person that installs liquefied petroleum
7 gas containers, appliances, furnaces, equipment or other
8 appurtenant apparatus or distributes or transports liquefied
9 petroleum gas; provided that the person is required to comply
10 with all provisions of the LPG and CNG Act and its regulations,
11 including classifications determined by the liquefied petroleum
12 gas bureau requiring a liquefied petroleum gas license.

13 C. The following do not require a contractor
14 license if the work is performed by an employee:

15 (1) all employees to whom wages are required
16 to be paid; provided that qualifying party and journeymen
17 employed by the currently licensed contractor performing work
18 pursuant to a contract shall be properly certified;

19 [~~3~~] (2) a public utility or rural electric
20 cooperative that constructs, reconstructs, operates or
21 maintains its plant or renders authorized service by the
22 installation, alteration or repair of facilities, up to and
23 including the meters, which facilities are an integral part of
24 the operational system of the public utility or rural electric
25 cooperative; provided that the construction of a building, [by

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1 ~~a public utility or rural electric cooperative or~~ the
2 installation or repair of [~~any~~] a consumer gas or electrical
3 appliance not an integral part of the operational system [~~makes~~
4 ~~a public utility or rural electric cooperative a contractor for~~
5 ~~that purpose~~] or the construction of a building by a public
6 utility or rural electric cooperative requires a license and
7 shall be constructed in conformity with all other provisions of
8 the Construction Inspection and Licensing Act;

9 [~~(4)~~] (3) a utility department, road
10 maintenance department or parks department of [~~any~~] a
11 municipality or local public body rendering authorized service
12 by the installation, alteration or repair of facilities, up to
13 and including the meters, which facilities are an integral part
14 of the operational system of the [~~utility~~] department of the
15 municipality;

16 [~~(5) any~~] (4) a railroad company;

17 [~~(6)~~] (5) a telephone [~~or telegraph~~] company
18 or rural electric cooperative that installs, alters or repairs
19 electrical equipment and devices for the operation of signals
20 or the transmission of intelligence where that work is an
21 integral part of the operation of a communication system owned
22 and operated by a telephone [~~or telegraph~~] company or rural
23 electric cooperative in rendering authorized service;

24 [~~(7) a pipeline company that installs, alters~~
25 ~~or repairs electrical equipment and devices for the operation~~

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

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

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

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

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1 ~~to be occupied by him; provided that the installation,~~
2 ~~building, alteration or repair is required to be done in~~
3 ~~conformity with all other provisions of the Construction~~
4 ~~Industries Licensing Act and with the orders, rules,~~
5 ~~regulations, standards and codes adopted pursuant to 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; provided~~
10 ~~that the construction or improvement is required to be done in~~
11 ~~conformity with all other provisions of the Construction~~
12 ~~Industries Licensing Act and with the orders, rules,~~
13 ~~regulations, standards and codes adopted pursuant to that act;~~
14 ~~and provided further that he does not engage in commercial~~
15 ~~construction;~~

16 ~~(12) a person who, by himself]~~

17 (6) a mining company, pipeline company, gas
18 company or oil company that:

19 (a) installs, alters or repairs its
20 facilities, including plumbing fixtures or gas piping, where
21 the work is an integral part of the installing or operating of
22 a system owned or operated by the mining company, pipeline
23 company, gas company or oil company; or

24 (b) alters or repairs electrical
25 equipment and devices for the operation of signals or the

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1 transmission of intelligence where that service is an integral
2 part of the operation of the communication system of that
3 company; provided that the construction of a building by a
4 mining company, pipeline company, gas company or oil company
5 requires a license and shall be constructed in conformity with
6 all other provisions of the Construction Inspection and
7 Licensing Act; or

8 (7) a radio, television or internet service
9 provider registered as a utility through the public regulation
10 commission that constructs, installs, alters or repairs
11 facilities, equipment, cables or lines for the provision of
12 television service or the carriage and transmission of
13 television services, internet services or radio broadcast
14 signals.

15 D. The following activities performed by an
16 individual do not constitute contracting but require permitting
17 and inspection:

18 (1) an individual who, alone or with the aid
19 of others who are paid only wages [~~and receive no other form of~~
20 compensation], builds, [~~or makes installations~~] installs,
21 repairs or makes alterations [~~in or to a building or other~~
22 improvement on a farm or ranch owned, occupied or operated by
23 him, or makes installations of electrical wiring that are not
24 to be connected to electrical energy supplied from a power
25 source outside the premises of the farm or ranch owned,

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1 ~~occupied or operated by him; provided that the state codes and~~
2 ~~any local codes adopted pursuant to Subsection F of Section~~
3 ~~60-13-44 NMSA 1978 shall not require any permits or inspections~~
4 ~~for such construction on a farm or ranch except for electrical~~
5 ~~wiring to be connected to a power source outside the premises;~~

6 ~~(13) an individual who works only for wages;~~

7 ~~(14) an individual who works on one~~

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

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

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

23 ~~(c) the individual files annually with~~
24 ~~the division, on a form prescribed by the division, a~~
25 ~~declaration substantially to the effect that he is not a~~

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

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

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

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

19 ~~(18) a person who performs work consisting of~~
20 ~~short-term depreciable improvements to commercial property to~~
21 ~~provide needed repairs and maintenance for items not covered by~~
22 ~~building codes adopted by the construction industry commission~~
23 ~~if the total amount paid the person for the work on a single~~
24 ~~undertaking, including materials, services and wages of those~~
25 ~~who work for him, does not exceed the sum of five thousand~~

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1 ~~dollars (\$5,000)]~~ to a single-family residential dwelling, farm
2 or ranch owned or occupied by the individual, including the
3 building or improvement of a freestanding storage building;
4 provided that the building, installation, alteration or repair
5 shall be completed in conformity with all other provisions of
6 the Construction Inspection and Licensing Act; and provided
7 further that the individual shall continue to own and occupy
8 the single-family residential dwelling, farm or ranch for a
9 one-year period after the issuance of the certificate of
10 occupancy or date of completion if a certificate of occupancy
11 is not issued;

12 (2) an individual who, alone or with the aid
13 of others who are paid only wages, and who, with written
14 permission of the owner, installs, repairs or alters a single-
15 family residential dwelling occupied by that individual,
16 including the improvement of a freestanding storage building;
17 provided that the installation, alteration or repair shall be
18 completed in conformity with all other provisions of the
19 Construction Inspection and Licensing Act; or

20 (3) a person who, alone or with the aid of
21 others who are paid only wages, builds or makes installations,
22 repairs or alterations in or to a building or other improvement
23 on a commercial farm or ranch owned, occupied or operated by
24 that person or who makes installations of electrical wiring
25 that will not be connected to electrical energy supplied from a

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1 power source outside the premises of that farm or ranch;
2 provided that the installation, alteration or repair shall be
3 completed in conformity with all other provisions of the
4 Construction Inspection and Licensing Act."

5 SECTION 5. Section 60-13-3.1 NMSA 1978 (being Laws 2005,
6 Chapter 94, Section 1) is repealed and a new Section 60-13-3.1
7 NMSA 1978 is enacted to read:

8 "60-13-3.1. [NEW MATERIAL] EMPLOYER AND EMPLOYEE
9 RELATIONSHIP--INDEPENDENT CONTRACTOR.--An individual is
10 presumed to be an independent contractor if that individual
11 provides a service the performance of which requires a license
12 or certificate if:

13 A. the individual receives anything of value in
14 exchange for providing the service;

15 B. the individual is not required to provide an
16 internal revenue service form W-4 to the person for whom the
17 individual provides the service; and

18 C. the person for whom the individual provides the
19 service is not required to issue the individual an internal
20 revenue service form W-2."

21 SECTION 6. A new section of Chapter 60, Article 13 NMSA
22 1978 is enacted to read:

23 "[NEW MATERIAL] DIVISION--POWERS AND DUTIES.--

24 A. The division shall:

25 (1) propose rules to fulfill the statutory

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1 authority and purpose of the Construction Inspection and
2 Licensing Act and, after approval by the commission, adopt and
3 implement the rules;

4 (2) create or adopt for state use and
5 administer examinations on codes and standards, business
6 knowledge, division rules and the Construction Inspection and
7 Licensing Act for all classifications of contractor's licenses,
8 qualifying party certificates, journeyman and inspector's
9 certificates recommended by the commission and create protocols
10 for the training, education and continuing education for
11 qualifying parties, journeymen and inspectors;

12 (3) issue, under the director's approval,
13 contractor's licenses and certificates of qualification in
14 accordance with the provisions of the Construction Inspection
15 and Licensing Act;

16 (4) submit a list of all contractor licenses,
17 inspector's certificates, qualifying party certificates and
18 journeyman certificates issued by the division to the
19 commission for approval;

20 (5) assign specific responsibility to the
21 appropriate bureau for preparing state examinations or adopting
22 examinations for state use and for certifying and inspecting
23 each occupation, trade or activity authorized by the
24 Construction Inspection and Licensing Act;

25 (6) require the certified building official of

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1 the authority having jurisdiction to investigate all
2 allegations of violations of the Construction Inspection and
3 Licensing Act and its rules and code complaints that occur
4 within the jurisdiction of the authority having jurisdiction;

5 (7) impose and collect fees authorized
6 pursuant to the Construction Inspection and Licensing Act;

7 (8) adopt all statewide building codes and
8 minimum standards as recommended by the trade bureaus to the
9 director and approved by the commission;

10 (9) with approval of the superintendent of
11 regulation and licensing, employ personnel as the division
12 deems necessary for the exclusive purpose of investigating
13 violations of the Construction Inspection and Licensing Act and
14 its rules and institute legal action in the name of the
15 division to accomplish the provisions of the that act;

16 (10) approve, disapprove or revise the
17 recommended budget of each trade bureau and submit the budgets
18 of those bureaus, along with its own budget, to the regulation
19 and licensing department;

20 (11) approve, disapprove or revise and submit
21 to the regulation and licensing department all requests of the
22 trade bureaus for emergency budget transfers;

23 (12) make an annual report to the
24 superintendent of regulation and licensing concerning the
25 operations of the division and the trade bureaus;

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1 (13) develop policies concerning the
2 operations of the division and trade bureaus, including
3 recommendations for legislation it deems necessary to improve
4 the licensing and technical practices of the construction and
5 liquified petroleum gas industries and to protect persons,
6 property and agencies of the state and its political
7 subdivisions;

8 (14) adopt, subject to commission approval,
9 rules and codes necessary to carry out the provisions of the
10 Construction Inspection and Licensing Act and the LPG and CNG
11 Act;

12 (15) maintain a complete record of all
13 applications and all licenses issued, renewed, canceled,
14 suspended or revoked and make available upon request to
15 certified code jurisdictions all penalties imposed by the
16 division or commission;

17 (16) furnish, upon payment of a reasonable fee
18 established by the division, a certified copy of any license or
19 certificate issued or of the record of the official revocation
20 or suspension thereof. Such certified copy shall be prima
21 facie evidence of the facts stated therein;

22 (17) with the approval of the commission,
23 establish qualifications for inspectors certified to inspect in
24 one or more trade bureaus;

25 (18) assign an investigator to investigate the

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1 merits of every complaint brought against an inspector or an
2 authority having jurisdiction, including a certified building
3 official, and report to the commission at its next meeting
4 following the assignment of an investigator to investigate the
5 merits of the complaint; and

6 (19) designate a New Mexico certified building
7 official from among the general, mechanical-plumbing and
8 electrical bureaus who shall provide approval of a certified
9 building official for an authority having jurisdiction.

10 B. The division may appoint inspection agencies to
11 inspect the construction of manufactured commercial units,
12 modular homes and modular component structures, including
13 manufacturers whose business premises are located out of state,
14 to ensure that New Mexico standards of construction are adhered
15 to and that the quality of construction meets all New Mexico
16 codes and standards. An inspection agency that does not have a
17 place of business in the state shall file a written statement
18 with the secretary of state setting forth its name and business
19 address and designating the secretary of state as its agent for
20 the service of process."

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

23 "60-13-6. CONSTRUCTION INDUSTRIES COMMISSION CREATED--
24 MEMBERSHIP--DUTIES.--

25 A. There is created within the division the

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1 "construction industries commission". The commission shall be
2 composed of nine voting members who shall serve at the pleasure
3 of the governor. Members shall be appointed by the governor,
4 with the advice and consent of the senate, as follows:

5 (1) one member who [~~is a representative of the~~
6 ~~residential construction industry of this state~~] represents
7 residential contractors;

8 (2) one member who represents commercial
9 contractors;

10 [~~2~~] (3) one member who [~~is a licensed~~
11 represents electrical [contractor] contractors;

12 [~~3~~] (4) one member who [~~is a licensed~~
13 ~~mechanical contractor~~] represents mechanical-plumbing
14 contractors;

15 [~~4~~] (5) one member who is a licensed and
16 practicing architect;

17 [~~5~~] ~~one member who is a practicing general~~
18 ~~contractor;~~]

19 (6) one member who [~~is a representative of~~
20 ~~the~~] represents liquefied petroleum gas [~~industry~~] contractors;

21 (7) one member who is a resident of the state,
22 who is not a licensed contractor or certified journeyman and
23 who shall represent the people of New Mexico;

24 (8) one member who [~~is a representative of the~~
25 ~~subcontracting industry of the state~~] represents

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1 subcontractors; and

2 (9) one member who [~~is a representative of~~]
3 represents organized labor in the various construction
4 industries.

5 B. Members shall be appointed to provide adequate
6 representation of all geographic areas of the state.

7 [~~B.~~] C. Each member of the commission shall receive
8 per diem and mileage as provided in the Per Diem and Mileage
9 Act and shall receive no other compensation, perquisite or
10 allowance.

11 [~~C.~~] D. The commission shall annually elect a chair
12 and vice chair from its membership. The director shall serve
13 as the executive secretary of the commission.

14 [~~D.~~] E. It is mandatory that the commission [~~shall~~]
15 meet at least bimonthly [~~or~~] and at the call of the chair.

16 [~~E.~~] F. The commission shall establish policy [~~for~~
17 ~~the division. It shall~~], advise on, review [~~coordinate~~] and
18 approve or disapprove all rules, standards, codes and licensing
19 requirements that are subject to the approval of the commission
20 under the provisions of the Construction [~~Industries~~]
21 Inspection and Licensing Act or the LPG and CNG Act so as to
22 ensure that uniform codes and standards are promulgated and
23 conflicting provisions are avoided. However, the commission
24 shall not [~~enact~~] approve a bylaw, order, building code, policy
25 or rule requiring the installation of a residential fire

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1 protection sprinkler system in detached one- and two-family
2 dwellings and multiple single-family dwellings, [~~such as~~
3 including townhouses that are not more than three stories above
4 grade plane in height and that have a separate means of egress
5 and their accessory structures.

6 G. The commission shall [~~(1) revoke or suspend~~
7 discipline or penalize a qualifying party, journeyman or
8 inspector for cause and shall suspend or revoke, for cause in
9 accordance with Section 60-13-23 NMSA 1978, any license, [~~or~~
10 qualifying party certificate, journeyman certificate [~~of~~
11 qualification] or inspector's certificate issued under the
12 provisions of the Construction [~~Industries]~~ Inspection and
13 Licensing Act or the LPG and CNG Act. [~~and~~

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

22 SECTION 8. A new section of Chapter 60, Article 13 NMSA
23 1978 is enacted to read:

24 "[NEW MATERIAL] LIABILITY OF COMMISSION MEMBERS AND
25 DIVISION PERSONNEL.--Neither the division, the trade bureau

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1 chiefs, their duly authorized employees nor members of the
2 commission shall be held personally responsible or liable for
3 any act pertaining to their official duties."

4 SECTION 9. Section 60-13-7 NMSA 1978 (being Laws 1977,
5 Chapter 245, Section 169, as amended) is amended to read:

6 "60-13-7. [~~CONSTRUCTION INDUSTRIES~~] DIVISION--DIRECTOR--
7 APPOINTMENT AND QUALIFICATIONS.--The superintendent of
8 regulation and licensing shall appoint the director of the
9 division, who shall be a person who meets at least one of the
10 following qualifications:

11 A. is or has been a representative of an active
12 practicing construction [~~contractor~~] company for at least five
13 years;

14 B. is or has been an employee in an administrative
15 position of a construction company for at least five of the
16 past ten years;

17 C. has been employed by the [~~construction~~
18 ~~industries~~] division for at least five years and is
19 knowledgeable in the administration of the law governing the
20 [~~construction industries~~] division; or

21 D. is or has been actively engaged for at least
22 five of the past ten years in an administrative position of an
23 organization [~~which~~] that requires that person to have a broad
24 knowledge of the construction industry."

25 SECTION 10. Section 60-13-8 NMSA 1978 (being Laws 1967,

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1 Chapter 199, Section 12, as amended) is amended to read:

2 "60-13-8. DIVISION--EMPLOYEES--EQUIPMENT AND SUPPLIES.--

3 A. The division shall employ personnel, procure
4 equipment and supplies and assemble records as necessary to
5 carry out the provisions of the Construction [~~Industries~~]
6 Inspection and Licensing Act.

7 B. [~~Any~~] A license, qualifying party certificate or
8 journeyman certificate issued by the division to a person
9 employed [~~or placed under contract~~] by the division or by any
10 county or municipality for the purpose of carrying out the
11 provisions of the Construction [~~Industries~~] Inspection and
12 Licensing Act [~~who holds any contractor's license or~~
13 certificate of competence issued by the division] shall, as a
14 condition of employment, [~~surrender the contractor's license or~~
15 ~~certificate of competence to the division to~~] be held in
16 inactive status [~~The division shall place the license or~~
17 ~~certificate on hold effective from the date the employment or~~
18 ~~contract begins until the date the employment or contract~~
19 ~~terminates] for the duration of employment. The license or
20 certificate shall be active and remain in effect after the
21 [~~hold~~] inactive status period for the same number of days as it
22 would have remained in effect but for the [~~hold~~] inactive
23 status period."~~

24 SECTION 11. Section 60-13-8.1 NMSA 1978 (being Laws 1997,
25 Chapter 181, Section 9) is amended to read:

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1 "60-13-8.1. CONSTRUCTION INDUSTRIES DIVISION PUBLICATIONS
2 REVOLVING FUND CREATED--APPROPRIATION.--The "construction
3 industries division publications revolving fund" is created.
4 All money collected by the division from the sale of
5 publications and information related to the licensing and
6 regulatory provisions of and issues arising under the
7 Construction [~~Industries~~] Inspection and Licensing Act and
8 [~~regulations~~] rules adopted pursuant to that act shall be
9 deposited with the state treasurer to be credited to the fund.
10 Money in the fund is appropriated to the division. Money in
11 the fund shall be used only for printing and maintenance of
12 publications and information related to the licensing and
13 regulatory provisions of and issues arising under the
14 Construction [~~Industries~~] Inspection and Licensing Act and
15 [~~regulations~~] rules adopted pursuant to that act.
16 Disbursements from the fund shall be made by warrants signed by
17 the secretary of finance and administration, based upon
18 vouchers signed by the director and only in accordance with a
19 budget approved by the department of finance and
20 administration. Money in the fund shall not revert at the end
21 of the fiscal year."

22 SECTION 12. A new section of Chapter 60, Article 13 NMSA
23 1978 is enacted to read:

24 "[NEW MATERIAL] EDUCATIONAL OUTREACH AND INVESTIGATIONS
25 FUND CREATED.--There is created in the state treasury the

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1 "educational outreach and investigations fund" to be
2 administered by the director. The fund consists of all civil
3 penalties, costs of investigation and other administrative
4 assessments collected by the division pursuant to enforcement
5 actions and the Construction Inspection and Licensing Act,
6 income from investment of the fund and money otherwise accruing
7 to the fund. Money in the fund shall be used to pay costs of
8 the division associated with the investigations and enforcement
9 of complaints against licensed or unlicensed contractors and to
10 educate the public on the Construction Inspection and Licensing
11 Act and its rules and codes and the responsibilities of
12 contractors in New Mexico. Disbursements from the fund shall
13 be made by the director. Disbursements from the fund shall be
14 made by warrants signed by the secretary of finance and
15 administration, based upon vouchers signed by the director and
16 only in accordance with a budget approved by the department of
17 finance and administration. Money in the fund shall not revert
18 at the end of a fiscal year."

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

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

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

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- 1 B. administer oaths;
- 2 C. adopt and use a seal for authentication of its
- 3 records, processes and proceedings;
- 4 D. compel minimum code compliance in [~~all certified~~
- 5 ~~code jurisdictions and political subdivisions~~] the state; and
- 6 E. [~~investigate~~] require investigations of code
- 7 violations in any code jurisdictions in [~~New Mexico~~] the
- 8 state."

9 SECTION 14. Section 60-13-14 NMSA 1978 (being Laws 1967,

10 Chapter 199, Section 17, as amended) is amended to read:

11 "60-13-14. DIVISION--LICENSE ISSUANCE AND RENEWAL--

12 INACTIVE STATUS--LICENSEE DUTIES--PENALTIES--REPORTS.--

13 A. No license shall be issued by the division to

14 [~~any~~] an applicant unless the director is satisfied that the

15 applicant is or has in [~~his~~] the applicant's employ a

16 qualifying party who is qualified [~~for~~] in the classification

17 for which application is made and the applicant has satisfied

18 the requirements of Subsection [B] N of this section.

19 B. A person shall not bid or contract for

20 construction services without a license issued by the division

21 and classified to cover the type of work to be undertaken.

22 C. A bid on a contract shall not be submitted

23 unless the contractor has a valid license issued by the

24 division to bid and perform the type of work to be undertaken;

25 provided that this subsection shall not prohibit a licensed

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1 contractor from bidding or contracting work involving the use
2 of two or more trades, crafts or classifications if the
3 performance of the work in the trades, crafts or
4 classifications other than the one in which the contractor is
5 licensed is incidental to the performance of the work in the
6 trades, crafts or classifications for which the contractor is
7 licensed.

8 D. In order to bid or contract as a prime
9 contractor, the largest portion of the work to be performed,
10 based on dollar amount, must be within the scope of the prime
11 contractor's license classification.

12 E. A contractor licensed with the classification
13 that authorizes residential and commercial general building may
14 bid and contract as the prime contractor on a project that
15 involves work authorized by the license certification,
16 regardless of the percentage of work on the project that
17 involves the mechanical-plumbing or electrical trades.

18 F. Upon completion of all division requirements, an
19 entity with a valid, active manufactured housing installer
20 license may obtain a crossover license to enable the licensee
21 to perform installations of modular buildings.

22 G. A crossover licensee may bid or contract as a
23 prime contractor for the installation of residential modular
24 buildings. The licensee may perform the installation; provided
25 that all other general, electrical and mechanical-plumbing work

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1 shall be subcontracted.

2 H. A licensee, subsequent to the issuance of a
3 license, may be licensed in more than one classification if the
4 licensee's qualifying party meets the prescribed qualification
5 for the additional classification.

6 I. Work outside the scope of a prime contractor's
7 license classification shall be subcontracted.

8 J. A contractor may bid on a state highway project
9 involving the expenditure of federal funds prior to making
10 application to the division for a license. The contractor, if
11 the contractor does not possess a valid New Mexico license,
12 shall, upon becoming the apparent successful bidder and prior
13 to commencing work, obtain a license from the division. The
14 director shall issue a license to the contractor in accordance
15 with the provisions of the Construction Inspection and
16 Licensing Act.

17 K. When bidding or entering into a contract, a
18 licensee shall:

19 (1) clearly indicate the licensee's company
20 name as it appears on the license, license number, qualifying
21 party name, certificate numbers and attached classifications;

22 (2) exhibit satisfactory evidence of
23 possession of a license upon demand; and

24 (3) clearly indicate the licensee's license
25 number when applying for a building permit.

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1 L. A licensee who fails to clearly indicate the
2 licensee's license number on a written bid, contract or
3 building permit shall be assessed a penalty fee of one hundred
4 dollars (\$100), payable to the division, which shall be
5 deposited in the educational outreach and investigations fund.

6 M. A license, including a crossover license, issued
7 by the division is issued to a business entity authorized to do
8 business in New Mexico and is not transferable.

9 [~~B.~~] N. An applicant for a license shall:

10 ~~[(1) demonstrate proof of responsibility as~~
11 ~~provided in the Construction Industries Licensing Act;~~

12 ~~(2) comply with the provisions of Subsection D~~
13 ~~of this section if he has engaged illegally in the contracting~~
14 ~~business in New Mexico within one year prior to making~~
15 ~~application;~~

16 ~~(3) demonstrate familiarity with the rules and~~
17 ~~regulations promulgated by the commission and division~~
18 ~~concerning the classification for which application is made;]~~

19 (1) be or employ a qualifying party who is
20 qualified for the classification for which the application is
21 requested and submit an application on a form prescribed by the
22 division, including all required attachments and the prescribed
23 fees. The division shall not accept an incomplete application;

24 (2) pay the compliance recovery fee required
25 under Section 36 of this 2019 act;

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1 ~~[(4)]~~ (3) if a corporation, incorporated
2 association, registered limited partnership, registered limited
3 liability partnership or limited liability company, have
4 complied with the laws of this state requiring qualification to
5 do business in ~~[New Mexico]~~ the state and provide the name of
6 its current registered agent and the current address of its
7 registered agent's office in ~~[New Mexico;~~

8 ~~(5) if a person other than the persons~~
9 ~~described in Paragraph (4) of this subsection]~~ the state;

10 (4) provide ~~[a]~~ the current physical business
11 location address and the current mailing address of the
12 ~~[applicant's place of]~~ business entity and provide within
13 thirty days any change in the address of either the physical
14 business location address or mailing address;

15 ~~[(6)]~~ (5) submit proof of registration with
16 the taxation and revenue department and submit a current
17 ~~[identification]~~ tax identification number;

18 (6) submit proof of compliance with the
19 Workers' Compensation Act; and

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

23 ~~(8) have had four years, within the ten years~~
24 ~~immediately prior to application, of practical or related trade~~
25 ~~experience dealing specifically with the type of construction~~

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1 ~~or its equivalent for which the applicant is applying for a~~
2 ~~license, except that the commission may by regulation provide~~
3 ~~for:~~

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

7 ~~(b) a waiver of the work experience~~
8 ~~requirement of this paragraph when the qualifying party has~~
9 ~~been certified in New Mexico with the same license~~
10 ~~classification within the ten years immediately prior to~~
11 ~~application] issued pursuant to the Construction Inspection and~~
12 ~~Licensing Act.~~

13 O. The requirements in Subsection N of this section
14 are also a condition of continuing licensure. The license of a
15 business entity no longer qualified to do business in this
16 state due to failure to comply with Subsection R or Paragraph
17 (1), (2) or (3) of Subsection N of this section shall be
18 canceled by operation of law.

19 P. A licensee that fails to provide its current
20 physical business location address and current mailing address
21 within thirty days of a change of address shall be subject to a
22 civil penalty of one hundred dollars (\$100), payable to the
23 educational outreach and investigations fund.

24 Q. Failure to comply with a requirement in
25 Paragraph (5), (6) or (7) of Subsection N of this section shall

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1 be grounds for discipline, penalties, suspension or
2 cancellation or revocation of a license pursuant to the
3 Construction Inspection and Licensing Act and the Uniform
4 Licensing Act.

5 R. In the event that a licensee loses a qualifying
6 party, the licensee and the qualifying party shall, immediately
7 but within no more than ten days, notify the division and all
8 jurisdictions where the licensee has an open permit, and the
9 license shall be suspended for the lesser of ninety days
10 following the date the licensee has no qualifying party or
11 until a properly certified qualifying party is attached to the
12 license. The licensee shall not bid or contract in the trade
13 classification of the absent qualifying party until a properly
14 certified qualifying party is attached to the license. If a
15 properly certified qualifying party is not attached to the
16 license within ninety days following the date the licensee has
17 no qualifying party, the license shall be canceled. The
18 division may authorize a licensee to continue work that is in
19 progress as of the day of the suspension or cancellation.

20 S. The division shall not issue a license and shall
21 require a change in the name of a proposed license if the
22 proposed name is identical to or, in the opinion of the
23 director, so similar that it may cause confusion with a name on
24 an existing license or a pending license application. Any
25 person aggrieved by the director's decision may appeal to the

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1 commission not later than ten days prior to the date of the
2 next scheduled commission meeting.

3 [G.] T. The division, with the consent of the
4 commission, may enter into a reciprocal licensing or
5 certification agreement with any state having equivalent
6 licensing and certification requirements.

7 [D.] U. The director may issue a license to an
8 applicant who at any time within one year prior to making
9 application has acted as a contractor in New Mexico without a
10 license as required by the Construction [~~Industries~~] Inspection
11 and Licensing Act if the applicant complies with the
12 requirements of Subsection A of Section 60-13-23.1 NMSA 1978.

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

15 (a) ~~in an amount up to ten percent of~~
16 ~~the contract price or the value of the nonlicensed contracted~~
17 ~~work in the discretion of the commission; or~~

18 (b) ~~if the applicant has bid or offered~~
19 ~~a price on a construction project and was not the successful~~
20 ~~bidder or offeror, the fee shall be at least one percent but~~
21 ~~not more than five percent of the total bid amount; and~~

22 (2) ~~the director is satisfied that no incident~~
23 ~~of such contracting without a license:~~

24 (a) ~~caused monetary damage to any~~
25 ~~person; or~~

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1 Licensing Act.

2 X. A contractor's license shall expire no later
3 than three years after the issue date as provided by rule. The
4 license shall be renewable upon application to the division and
5 payment of the prescribed renewal fee; provided that nothing in
6 this subsection shall prohibit the division from establishing a
7 staggered system of license expiration.

8 Y. The division shall, at least thirty days prior
9 to the expiration date of a license, notify the licensee by
10 mail or electronic mail addressed to the licensee's last
11 address on file with the division of the approaching
12 expiration, including a renewal application form, instructions
13 and any other information prescribed by the division. It is
14 the responsibility of the licensee to timely renew its license
15 whether or not the licensee receives the renewal application
16 form.

17 Z. Failure of a licensee to make application for
18 the renewal of the license, to furnish such other required
19 information and to pay the prescribed renewal fee by the last
20 working day prior to the expiration of the license shall cause
21 the license to be suspended by operation of law. The licensee
22 shall not bid or contract until the license is renewed. The
23 suspended license may be renewed only after payment of a fee
24 equal to one dollar (\$1.00) for each day, up to thirty days,
25 that has elapsed since the expiration date of the license and

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1 thereafter payment of a renewal fee plus a penalty in an amount
2 equal to twice the amount of the renewal fee. Unless the
3 license is renewed within a three-month period from the date of
4 expiration, it shall be canceled by operation of law and is not
5 eligible for renewal.

6 AA. A licensee or certificate holder may request
7 inactive status for a period of no longer than three years as
8 provided by rule.

9 BB. A person whose license or certificate is
10 revoked shall not be eligible to apply for a new license or
11 certificate issued pursuant to the Construction Inspection and
12 Licensing Act for at least one year after the date of the order
13 of revocation; provided that the commission may in the order of
14 revocation extend the period of ineligibility, including
15 permanent ineligibility, for good cause.

16 CC. Following the revocation of a contractor's
17 license or a qualifying party's certificate pursuant to the
18 Construction Inspection and Licensing Act, the division shall
19 not issue a license or certificate to a contractor or
20 qualifying party if the director finds that the contractor or
21 qualifying party has, during the period of revocation, engaged
22 in activity that constitutes a violation of any provision of
23 the Construction Inspection and Licensing Act.

24 DD. A person shall not bring or maintain an action
25 in a court in this state to seek compensation for the

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1 performance of an act for which a license is required by the
2 Construction Inspection and Licensing Act unless the person
3 alleges and proves that the person performing the act was duly
4 licensed to perform the scope of work for which compensation is
5 sought at the time the alleged cause of action arose.

6 EE. Neither a qualifying party certificate nor a
7 journeyman certificate qualifies as a license."

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

10 "60-13-16. DIVISION--QUALIFYING PARTY REQUIREMENTS--
11 EXAMINATION--CERTIFICATE.--

12 ~~[A. Except as otherwise provided in this section,~~
13 ~~no certificate of qualification shall be issued to an~~
14 ~~individual desiring to be a qualifying party until he has~~
15 ~~passed with a satisfactory score an examination approved and~~
16 ~~adopted by the division.~~

17 B. ~~The examination shall consist of a test based on~~
18 ~~general business knowledge, rules and regulations of the~~
19 ~~division and the provisions of the Construction Industries~~
20 ~~Licensing Act. In addition, applicants for a GB, MM or EE~~
21 ~~classification or for any other classification that the~~
22 ~~commission determines to be appropriate shall take a test based~~
23 ~~on technical knowledge and familiarity with the prescribed~~
24 ~~codes and minimum standards of the particular classification~~
25 ~~for which certification is requested. The division shall~~

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1 ~~provide examinations in both English and Spanish.]~~

2 A. An applicant for a qualifying party certificate
3 shall:

4 (1) complete and submit to the division an
5 application on a form prescribed by the division accompanied by
6 all required attachments and the prescribed fee;

7 (2) have completed four years, within the ten
8 years immediately prior to application, of practical or related
9 trade experience dealing specifically with the type of
10 construction or its equivalent for which the applicant is
11 applying for a certificate, except that the commission may by
12 rule reduce this requirement for a particular classification
13 where the commission deems the requirement excessive, but the
14 requirement shall not be less than two years;

15 (3) comply with any additional division
16 procedures and commission-approved rules relating to the
17 issuance of licenses; and

18 (4) provide and ensure that the division
19 always has the applicant's current physical location address
20 and mailing address; failure to comply may subject the
21 qualifying party to discipline.

22 B. A qualifying party must successfully pass
23 examinations, including:

24 (1) all required examinations based on
25 technical knowledge and familiarity with the prescribed codes

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1 and minimum standards of the particular classification for
2 which certification is required; and

3 (2) a business and law examination based on
4 general business knowledge, the provisions of the Construction
5 Inspection and Licensing Act and rules of the division.

6 C. In lieu of the examination to determine
7 knowledge of business and construction industries law provided
8 in Subsection B of this section, an applicant may satisfy the
9 business and law knowledge requirement by receiving a
10 certificate of completion of a business and law course of study
11 offered by an ~~[accredited education institute approved by the~~
12 ~~commission. The course and any preparation and instruction~~
13 ~~materials shall be available in both English and Spanish and~~
14 ~~shall be made available to the division, the commission or the~~
15 ~~designated agent of the division, upon request, for review]~~
16 approved course provider.

17 D. In the event that a qualifying party ceases to
18 qualify a licensee, the qualifying party shall immediately, but
19 within no more than ten days, notify the division of this
20 change in status.

21 E. Qualifying party certificate holders may be
22 required to complete and submit proof of continuing education
23 as a prerequisite for renewal of a certificate.

24 F. A qualifying party certificate does not qualify
25 as a license and is not transferable.

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1 ~~[D.]~~ G. If a contractor's license is subject to
2 suspension ~~[by the commission and if the suspension is]~~ based
3 on the requirement that the licensee ~~[employ a]~~ have a validly
4 attached qualifying party, and the ~~[employment of the]~~
5 qualifying party is terminated ~~[without fault of the licensee]~~
6 after notifying the division pursuant to Section 60-13-14 NMSA
7 1978, a member of that trade who is experienced in the
8 classification for which the qualifying party certificate ~~[of~~
9 ~~qualification]~~ was issued and who has been legally employed for
10 ~~[five or more years by the licensed contractor]~~ the minimum
11 required years of experience for that classification shall be
12 issued, without examination, a temporary qualifying party
13 certificate ~~[of qualification]~~ in the classification for which
14 the contractor ~~[is]~~ was licensed. The temporary qualifying
15 party is required to pass the regular ~~[examination]~~
16 examinations as set forth in Subsection B of this section
17 within ninety days ~~[of issuance of a temporary certificate of~~
18 ~~qualification.]~~

19 ~~E.~~ ~~The certificate of qualification is not~~
20 ~~transferable.~~

21 ~~F.~~ ~~A qualifying party whose certificate is revoked~~
22 ~~by the commission shall not reapply for a certificate for one~~
23 ~~year]~~ after the prior qualifying party's termination date."

24 SECTION 16. A new section of Chapter 60, Article 13 NMSA
25 1978 is enacted to read:

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1 "[NEW MATERIAL] JOURNEYMAN CERTIFICATION--REQUIREMENTS.--

2 A. A person shall not perform work in an occupation
3 or trade that requires a journeyman certification unless the
4 person holds a journeyman certificate issued by the division;
5 provided that an apprentice, as defined in Section 60-13-2 NMSA
6 1978, may work under the direct supervision of a validly
7 certified journeyman.

8 B. The division shall establish by rule a ratio of
9 certified journeymen to registered and unregistered apprentices
10 required for various kinds of projects. A journeyman who
11 violates the rule shall be subject to discipline or penalties,
12 and the journeyman certificate shall be subject to suspension
13 or revocation.

14 C. The categories of journeyman certification are
15 journeyman electrician, journeyman electrical specialties,
16 journeyman plumber, journeyman gas fitter, journeyman pipe
17 fitter, journeyman refrigeration, journeyman sheet metal
18 worker, journeyman sprinkler, journeyman fire protection,
19 boiler operator and other designations as determined by the
20 electrical or mechanical-plumbing bureau chief and approved and
21 adopted by the commission.

22 D. An applicant for a journeyman certificate shall:
23 (1) complete an application on a form
24 prescribed by the division and accompanied by all required
25 attachments and the prescribed fee; and

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1 (2) take an examination approved and adopted
2 by the division regarding knowledge of the orders and rules
3 governing the occupation or trade for which a certificate is
4 sought and knowledge and ability pertaining to the particular
5 trade. The examination may be oral, written or demonstrative
6 or any combination thereof.

7 E. A person is not eligible to take an examination
8 for a journeyman certificate unless the applicant has completed
9 the required number of years of experience in the occupation or
10 trade for which a journeyman certificate is sought, or has
11 successfully completed an apprenticeship program in the trade
12 approved by the division or has completed a course approved by
13 the division, and has completed the number of years of
14 experience established by rule, which shall not be less than
15 two years nor greater than four years. The course shall not
16 account for more than one-half of the experience requirement.

17 F. A person is eligible to take an examination for
18 a journeyman electrician certificate after at least:

19 (1) four years of accredited training in the
20 electrical trade;

21 (2) four years of apprenticeship in the
22 electrical trade;

23 (3) four years of practical experience
24 obtained within the ten years preceding the application date in
25 the electrical trade, of which two years are in the commercial

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1 trade, industrial trade or the equivalent as determined by the
2 electrical bureau chief; or

3 (4) successfully completing an electrical
4 trade program approved by the instructional support and
5 vocational education division of the public education
6 department and the division and two years of practical
7 experience in the commercial electrical trade.

8 G. For all other electrical classifications and
9 mechanical classifications, the trade bureau chief shall
10 propose rules for examinations and experience requirements.
11 Only practical experience obtained within the ten years
12 preceding the application date shall be considered.

13 H. Journeyman certificates issued by the division
14 are not transferable and shall expire on the date established
15 by the division, not more than three years from the month of
16 issuance.

17 I. Continuing education requirements for a
18 journeyman shall include at least sixteen hours of continuing
19 education in every renewal cycle, of which eight hours shall be
20 code change instructions and eight hours shall be other
21 industry-related instruction. All continuing education
22 curricula and instructors shall be approved by the commission
23 based on recommendations by the appropriate bureau.

24 J. Applications for renewal of a journeyman
25 certificate shall be filed with the division prior to the last

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1 working day before the certificate expires and shall include:

- 2 (1) a completed application for renewal;
3 (2) proof of completion of the continuing
4 education requirements; and
5 (3) the fee prescribed for the initial
6 issuance of the certificate.

7 K. An application for renewal that is not
8 accompanied by proof of completion of the continuing education
9 requirements is incomplete and shall not be processed. The
10 continuing education requirements in this section shall apply
11 to a journeyman when designated in rule.

12 L. A journeyman certificate not timely renewed
13 shall expire by operation of law. The certificate holder shall
14 not perform work as a journeyman until the certificate is
15 renewed. An expired certificate shall be renewable within a
16 six-month period following the expiration date, without
17 examination, upon payment of a fee equal to the amount of the
18 renewal fee plus a penalty equal to twice the amount of the
19 renewal fee. If the certificate is not renewed within the six-
20 month period, the applicant shall reapply and shall meet all
21 requirements for initial journeyman certification, including
22 examination."

23 SECTION 17. A new section of Chapter 60, Article 13 NMSA
24 1978 is enacted to read:

25 "[NEW MATERIAL] AUTHORITY HAVING JURISDICTION--

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1 REQUIREMENTS.--

2 A. The New Mexico certified building official has
3 ultimate authority over conflicts arising among authorities
4 having jurisdiction, other than trade bureau chiefs.

5 B. All political subdivisions of the state are
6 subject to the provisions of codes adopted and approved
7 pursuant to the Construction Inspection and Licensing Act.
8 These codes constitute the minimum requirement for the codes of
9 political subdivisions.

10 C. A political subdivision shall not employ an
11 inspector unless the political subdivision has a full service
12 building and planning department and employs or shares a
13 division-approved certified building official with another
14 political subdivision.

15 D. A certified building official shall be approved
16 by the division, hold a current nationally recognized code
17 organization certified building official certificate, have
18 broad knowledge of the construction industry and have been
19 either a practicing inspector or a practicing contractor for at
20 least five of the last ten years prior to approval by the
21 division or have held a management position in a construction-
22 related company or construction organization for at least five
23 of the last ten years prior to approval by the division.

24 E. All political subdivisions of the state are
25 subject to the provisions of codes adopted and approved

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1 pursuant to the Construction Inspection and Licensing Act.
2 These codes constitute the minimum requirement for the codes of
3 political subdivisions.

4 F. A political subdivision shall not employ an
5 inspector unless the political subdivision has a full service
6 building and planning department and employs or shares a
7 division-approved certified building official with another
8 political subdivision pursuant to Section 60-13-18 NMSA 1978.

9 G. A county, municipality or other political
10 subdivision that employs a full-time division-approved
11 certified building official and a full service building
12 department may conduct plan reviews, permitting and inspections
13 and shall investigate violations of the Construction Inspection
14 and Licensing Act, its rules and codes.

15 H. A certified building official employed by an
16 authority having jurisdiction shall authorize an investigator
17 to investigate the actions performed by any licensee or
18 certificate holder within the jurisdiction of the authority
19 having jurisdiction. The investigator shall make an
20 investigation, securing all pertinent facts and statements,
21 including a statement from the contractor if the contractor is
22 available, and names and addresses of witnesses, and shall
23 provide a complete report to the certified building official.
24 Should the certified building official determine that
25 resolution of the violation is outside its jurisdiction or

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1 requires the assistance of the division, the certified building
2 official shall provide the division written notification.

3 I. A county, municipality or other political
4 subdivision that employs a full-time division-approved
5 certified building official and currently has a building
6 department approved by the division may continue to act in that
7 capacity whether or not the county, municipality or political
8 subdivision has a full service building department. If the
9 county, municipality or political subdivision relinquishes its
10 authority as a building department and later wishes to regain
11 this authority, the county, municipality or political
12 subdivision shall be subject to all requirements of this
13 section.

14 J. The division shall conduct all inspections if a
15 county, municipality or other political subdivision does not
16 have a division-approved certified building official and a full
17 service building department.

18 K. The division or a county, municipality or other
19 political subdivision that employs a full-time division-
20 approved certified building official and has a full service
21 building department shall enforce all provisions of the
22 Construction Inspection and Licensing Act and its rules,
23 including license validity and journeyman ratio requirements.

24 L. A county, municipality or other political
25 subdivision may enter into a memorandum of understanding with

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1 another county, municipality or other political subdivision to
2 share a certified building official and inspectors operating
3 under the certified building official; provided that the
4 certified building official is employed in the same county, in
5 an adjacent county, within one hundred miles of the county,
6 municipality or other political subdivision or as approved by
7 the division; and provided further that the memorandum of
8 understanding is approved by the division, ensures compliance
9 with the Construction Inspection and Licensing Act and its
10 rules and minimum state codes and that complaints shall be
11 investigated and prosecuted.

12 M. When a certified building official leaves the
13 employ of an authority having jurisdiction, the plan review,
14 permitting and inspections overseen by the certified building
15 official shall transfer to the state unless the county,
16 municipality or other political subdivision, within sixty days
17 or a period approved by the division not to exceed six months,
18 replaces the certified building official and has a full service
19 building department or enters into a memorandum of
20 understanding with another county, municipality or other
21 political subdivision to share a certified building official
22 and inspectors operating under the certified building official.

23 N. When an inspector leaves an authority having
24 jurisdiction, leaving no certified inspector for a particular
25 trade, the plan review, permitting and inspections overseen by

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1 the authority having jurisdiction in that trade shall
2 immediately transfer to the division. If the authority having
3 jurisdiction fails to replace the inspector within sixty days
4 or a period approved by the division not to exceed six months,
5 all plan review, permitting and inspection services and
6 investigations shall immediately transfer to and remain the
7 responsibility of the division until the authority having
8 jurisdiction fulfills all requirements to regain jurisdictional
9 authority.

10 O. Complaints filed within the jurisdiction of an
11 authority having jurisdiction shall be investigated and
12 resolved by the certified building official for that
13 jurisdiction; provided that the director has the discretion to
14 investigate and resolve any complaint filed within the state.

15 P. The authorization to permit and inspect by an
16 authority having jurisdiction or the certification of a
17 certified building official may be canceled by the division for
18 failure to comply with the following mandated requirements of
19 the Construction Inspection and Licensing Act, its rules and
20 codes:

21 (1) failure to employ a full-time certified
22 building official;

23 (2) failure to maintain inspectors in all
24 required trades;

25 (3) failure to ensure compliance of the state

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1 minimum construction codes in all covered trades;

2 (4) failure to verify license validity and
3 journeyman ratio requirements; and

4 (5) failure to investigate complaints within
5 its jurisdiction."

6 SECTION 18. Section 60-13-18 NMSA 1978 (being Laws 1967,
7 Chapter 199, Section 20, as amended) is repealed and a new
8 Section 60-13-18 NMSA 1978 is enacted to read:

9 "60-13-18. [NEW MATERIAL] INSPECTORS--REQUIREMENTS.--

10 A. The division shall certify and shall issue an
11 inspector's certificate to an individual who meets the
12 requirements established by the division for each trade bureau.
13 The certification is valid for a three-year term.

14 B. An applicant for an inspector's certificate
15 shall:

16 (1) comply with all requirements for
17 education, training and experience established pursuant to the
18 Construction Inspection and Licensing Act;

19 (2) meet the minimum experience required for a
20 qualifying inspector's certificate by the general construction,
21 electrical, mechanical-plumbing or liquefied petroleum gas
22 bureau. The division may by rule allow education in lieu of
23 practical trade work experience for up to one-half of the
24 minimum experience required;

25 (3) pass a background check as established by

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1 rule;

2 (4) pass the applicable specific state
3 inspector examination;

4 (5) pass the applicable national code
5 examination within one year of hire as established by rule.

6 Failure to pass required national examinations within one year
7 shall result in termination of employment; and

8 (6) complete a minimum of forty hours of on-
9 the-job training with an authority having jurisdiction.

10 C. Inspectors may receive certification in multiple
11 trades by compliance with all rules for multiple
12 certifications.

13 D. Approval to sit for the state examination
14 requires submission and approval of work experience by the
15 division.

16 E. An inspector shall be employed by an authority
17 having jurisdiction that has an approved full service building
18 department and an approved certified building official;
19 provided that the inspector is also approved by the division.

20 F. An inspector shall investigate all allegations
21 of violations of the Construction Inspection and Licensing Act
22 and its rules and code complaints that occur within the
23 inspector's jurisdictional authority as directed by the
24 authority having jurisdiction.

25 G. To qualify for an inspector's certificate, each

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1 applicant must properly complete the application and fulfill
2 all requirements established by rule. To maintain
3 certification, the inspector must provide proof that the
4 national certification has been renewed and is current."

5 SECTION 19. Section 60-13-19 NMSA 1978 (being Laws 1978,
6 Chapter 78, Section 1, as amended) is repealed and a new
7 Section 60-13-19 NMSA 1978 is enacted to read:

8 "60-13-19. [NEW MATERIAL] POWERS AND DUTIES OF
9 INSPECTORS--LIMITATION.--

10 A. An inspector certified by the division may,
11 during reasonable hours, enter any building or go upon any
12 premises in the discharge of the inspector's official duties
13 for the purpose of making an inspection of work performed, for
14 the purpose of testing an installation authorized within the
15 jurisdiction of the inspector's trade certification or to
16 verify a journeyman ratio. The inspector shall notify the
17 trade bureau chief or the certified building official of the
18 specific jurisdiction, who may then cut or disconnect, or have
19 cut or disconnected in cases of emergency, an installation,
20 device, appliance or equipment when necessary for safety to
21 life or property or where the installation, device, appliance
22 or equipment may interfere with the work of a fire department.

23 B. The trade bureau chief or the certified building
24 official may disconnect or order the discontinuance of service
25 to an installation, a device, an appliance or equipment found

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1 to be dangerous to life or property, or that is defective or
2 incorrectly installed, until the installation is inspected in
3 accordance with the Construction Inspection and Licensing Act
4 or the installation, device, appliance or equipment is made
5 safe and is approved by the inspector of record.

6 C. The trade bureau chief or the certified building
7 official may order the correction of any defects or any
8 incorrect installation that prompted the disconnection or
9 discontinuance of service.

10 D. In each case where disconnection is made, the
11 inspector of record shall attach a notice to the installation,
12 device, appliance or equipment stating that the disconnection
13 was made by or on order of the trade bureau chief or certified
14 building official and the reason for the disconnection. It is
15 unlawful for a person to remove the notice or to use the
16 installation, device, appliance or equipment without
17 authorization of an inspector.

18 E. The division shall adopt by rule official
19 inspection stickers or medallions for the purpose of
20 identifying modular homes, modular component structures and
21 tiny houses that have been inspected and found to comply with
22 all requirements of the state codes and standards.
23 Installation of modular homes, modular component structures and
24 tiny houses shall:

25 (1) require permits and inspections from the

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1 division or an authority having jurisdiction for construction
2 of foundations, electrical or mechanical-plumbing hookups or
3 other safety or sanitary requirements; and

4 (2) be subject to local planning and zoning
5 ordinances.

6 F. On a case-by-case basis, the division may exempt
7 temporary employee housing from strict compliance with modular
8 requirements and the temporary employee housing may be subject
9 only to permitting and inspections for temporary placement and
10 site utility hookups if the division determines that the
11 structure is safe for human habitation."

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

14 "60-13-20. FEES ESTABLISHED BY THE DIVISION--PAYMENT OF
15 EXAMINATION AND LICENSING SERVICE FEES.--

16 A. The division shall by [~~regulation~~] rule
17 establish and charge reasonable candidate and applicant fees
18 for each license and certificate [~~classification~~] for initial
19 applications, initial and additional examinations, license
20 [~~issuance and~~] renewals, certificate [~~of qualification issuance~~
21 ~~and renewal, and~~] renewals, licensing verification services and
22 other administrative services as determined by the division.

23 B. The division by [~~regulation~~] rule may provide
24 that fees charged pursuant to Subsection A of this section
25 shall be paid to the agency providing or administering the

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1 service if the service is provided pursuant to authority of the
2 division.

3 C. Fees received by the division, other than
4 nonreverting funds designated in the Construction Inspection
5 and Licensing Act, shall be paid to the state treasurer for
6 deposit and transfer as provided in Section 9-16-14 NMSA 1978."

7 SECTION 21. A new section of Chapter 60, Article 13 NMSA
8 1978 is enacted to read:

9 "[NEW MATERIAL] COMPLAINTS AGAINST LICENSEES AND
10 CERTIFICATE HOLDERS--INVESTIGATIONS BY DIVISION--NOTICE OF
11 REVOCATION ACTION.--

12 A. The division on its own motion or upon the
13 receipt of a verified complaint in writing of any person shall
14 require an investigation of the actions of a licensee or
15 certificate holder. The director may assign one or more
16 inspectors certified pursuant to Section 60-13-18 NMSA 1978,
17 investigators or other personnel to investigate the actions of
18 that licensee or certificate holder or any activity within the
19 jurisdiction of the Construction Inspection and Licensing Act.

20 B. The director may authorize an investigator to
21 enter any jurisdiction to investigate or may authorize a
22 certified building official to investigate the action of a
23 licensee or certificate holder performed within the
24 jurisdiction of the authority having jurisdiction. The
25 investigation shall be for the purpose of determining if the

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1 licensee or certificate holder has committed a code violation
2 or other breach of the Construction Inspection and Licensing
3 Act constituting grounds for suspension or revocation of the
4 licensee or certificate.

5 C. In conducting an investigation pursuant to this
6 section, the person assigned by the director shall secure all
7 pertinent facts and statements, including a statement from the
8 contractor, if the contractor is available, and names and
9 addresses of witnesses. Within one hundred eighty days of
10 receipt of the complaint by the division, the investigator or
11 certified building official shall submit a full and complete
12 written report to the director. A certified building official
13 who fails to timely submit a written report is subject to
14 discipline by the commission.

15 D. All suspension and revocation proceedings
16 conducted by the commission and judicial review of the
17 commission's decision shall be governed by the provisions of
18 the Uniform Licensing Act.

19 E. Financial or proprietary information obtained
20 during an investigation is not subject to the Inspection of
21 Public Records Act."

22 SECTION 22. Section 60-13-23 NMSA 1978 (being Laws 1967,
23 Chapter 199, Section 26, as amended) is amended to read:

24 "60-13-23. [~~REVOCATION OR SUSPENSION~~] DISCIPLINE OF
25 LICENSE AND CERTIFICATE HOLDERS BY THE COMMISSION [~~CAUSES~~].--

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1 ~~[Any license issued by the division shall be revoked or~~
2 ~~suspended]~~

3 A. A licensee or qualifying party shall be
4 disciplined, or the license or certificate of the licensee or
5 qualifying party shall be suspended or revoked, by the
6 commission for any of the following causes:

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

12 ~~B. knowingly contracting or performing]~~
13 (1) submission of a bid or performance of a
14 service beyond the scope of the license;

15 ~~[G.]~~ (2) misrepresentation of a material fact
16 by the applicant in obtaining a license or certificate,
17 including making a false, fraudulent or deceptive statement in
18 a document connected to bidding, licensing, inspection or
19 permitting or cheating on an examination;

20 ~~[D. failure to maintain proof of responsibility as~~
21 ~~required by the Construction Industries Licensing Act;~~

22 ~~E.]~~ (3) unjustified abandonment of any
23 contract as determined by a court of competent jurisdiction;

24 ~~[F.]~~ (4) conversion of funds or property
25 received ~~[for prosecution]~~ in the performance or completion of

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1 a specific contract [~~or for a specified purpose in the~~
2 ~~prosecution or completion of any contract, obligation or~~
3 ~~purpose~~], as determined by a court of competent jurisdiction;

4 [G.] (5) departure from or disregard of plans
5 or specifications that result in code violations;

6 (6) failure to correct code violations;

7 (7) performance of work in violation of a stop
8 work order;

9 [H.] (8) willful or fraudulent commission of
10 [any] an act by the licensee [as a contractor in consequence of
11 which another is substantially injured] in violation of the
12 Construction Inspection and Licensing Act, as determined by a
13 court of competent jurisdiction;

14 (9) failure to adhere to designated journeyman
15 ratios established by rule as prohibited by Section 60-13-23.1
16 NMSA 1978;

17 [I.] (10) failure to maintain workers'
18 compensation insurance as required by the Workers' Compensation
19 Act or failure to comply with the provisions of the Parental
20 Responsibility Act;

21 [J.] (11) aiding, abetting, combining or
22 conspiring with a person to evade or violate the provisions of
23 the Construction [Industries] Inspection and Licensing Act [by]
24 or allowing a contractor's license or a certificate to be used
25 by an unlicensed or uncertified person or acting as agent,

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1 partner, associate or otherwise in connection with an
2 unlicensed or uncertified person, with the intent to evade the
3 provisions of the Construction [~~Industries~~] Inspection and
4 Licensing Act; [or

5 or] (12) acting in the capacity of a licensee
6 under any other name than is set forth upon the license;

7 (13) gross incompetence or gross negligence in
8 the performance of a licensed activity as determined by a court
9 of competent jurisdiction;

10 (14) failure to cooperate in an investigation
11 by the division or an authority having jurisdiction or
12 violating a commission order;

13 (15) conviction of a contractor for violating
14 Subsection E of Section 60-13-52 NMSA 1978;

15 (16) failure to comply with the permitting,
16 content and display provisions of Subsection F of Section
17 60-13-45 NMSA 1978;

18 (17) failure to compensate a validly licensed
19 subcontractor for work performed pursuant to a contract as
20 determined by a court of competent jurisdiction;

21 (18) failure to pay for materials and supplies
22 furnished for use in the construction, alteration or repair of
23 any building or other improvement as determined by a court of
24 competent jurisdiction; and

25 (19) violation of any provision of the

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1 Construction Inspection and Licensing Act or a rule adopted by
2 the division pursuant to that act.

3 B. Three violations by a contractor resulting in
4 payment from the compliance recovery fund shall be deemed
5 substantial evidence of incompetence and a violation of
6 Paragraph (19) of Subsection A of this section and shall
7 subject the contractor's license to revocation.

8 C. A violation by a contractor resulting in the
9 payment of fifty thousand dollars (\$50,000) from the compliance
10 recovery fund shall be deemed substantial evidence of
11 incompetence and violation of Paragraph (19) of Subsection A of
12 this section, and the contractor's license and the qualifying
13 party's certificate shall be suspended until the contractor has
14 reimbursed the compliance recovery fund in the total amount
15 paid plus legal interest.

16 D. The commission shall make all suspensions for a
17 definite period except as otherwise provided in the
18 Construction Inspection and Licensing Act. Suspension of a
19 license for any cause specified in the Construction Inspection
20 and Licensing Act shall not preclude the commission from
21 revoking that license for cause.

22 E. A contractor whose license has been suspended or
23 revoked shall complete work in progress only as directed by the
24 commission or the director.

25 F. At the end of the suspension period, the

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1 commission shall review the license to determine if the license
2 should be reinstated or revoked.

3 G. An inspector or a New Mexico certified building
4 official may be disciplined or penalized or the inspector's or
5 certified building official's certificate revoked or suspended
6 by the commission for the following causes:

7 (1) misrepresentation of a material fact by
8 the individual in obtaining the certificate, including making a
9 false, fraudulent or deceptive statement in a document
10 submitted to the division or cheating on an examination;

11 (2) violation of a provision of the
12 Construction Inspection and Licensing Act or any code, minimum
13 standard or rule adopted pursuant to that act;

14 (3) failing to enforce, or aiding, abetting,
15 combining or conspiring with a person to evade or violate the
16 provisions of, the Construction Inspection and Licensing Act or
17 any code, minimum standard or rule adopted pursuant to that
18 act, including proper journeyman ratios;

19 (4) any violation of the Governmental Conduct
20 Act; or

21 (5) receiving monetary or other compensation
22 for performing construction consulting or work.

23 H. A certified building official may be disciplined
24 or penalized or the certified building official's certificate
25 may be revoked or suspended by the commission if the certified

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1 building official fails to timely submit a report required
2 pursuant to Subsection C of Section 21 of this 2019 Act.

3 I. The commission may discipline or penalize a
4 journeyman or suspend or revoke a journeyman certificate for
5 the following causes:

6 (1) misrepresentation of a material fact by
7 the individual in obtaining the certificate, including making a
8 false, fraudulent or deceptive statement in a document
9 submitted to the division or cheating on an examination;

10 (2) violation of any provision of the
11 Construction Inspection and Licensing Act or any code, minimum
12 standard or rule adopted pursuant to that act pertaining to
13 installation, alteration, maintenance, connection or repair;

14 (3) aiding, abetting, combining or conspiring
15 with a person to evade or violate the provisions of the
16 Construction Inspection and Licensing Act or any code, minimum
17 standard or rule adopted pursuant to that act;

18 (4) working beyond the scope of an issued
19 journeyman certificate;

20 (5) working as a journeyman with an expired
21 certificate;

22 (6) supervising apprentices in excess of the
23 approved journeyman ratio established by rule; or

24 (7) violation of any provision of the
25 Construction Inspection and Licensing Act or any code, minimum

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1 standard or rule adopted pursuant to that act."

2 SECTION 23. Section 60-13-23.1 NMSA 1978 (being Laws
3 1987, Chapter 283, Section 6, as amended) is amended to read:

4 "60-13-23.1. ~~[ADMINISTRATIVE PENALTY]~~ PENALTIES.--

5 A. The director may issue a license to an applicant
6 who has acted as a contractor in New Mexico without a license
7 as required by the Construction Inspection and Licensing Act
8 if:

9 (1) the applicant, in addition to meeting all
10 other requirements for licensure, pays the following additional
11 fee:

12 (a) if the applicant has bid or offered
13 a price on a construction project and was the successful bidder
14 or offeror, the fee shall be at least five percent but not more
15 than ten percent of the contract price or the value of the
16 nonlicensed contracted work; or

17 (b) if the applicant has bid or offered
18 a price on a construction project and was not the successful
19 bidder or offeror, the fee shall be at least one percent but
20 not more than five percent of the total bid amount; and

21 (2) the director is satisfied that no incident
22 of contracting without a license:

23 (a) caused monetary damage to any
24 person; or

25 (b) resulted in an unresolved consumer

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1 complaint against the applicant being filed with the division.

2 B. An unlicensed contractor who has performed
3 unlicensed work may settle the claims without becoming licensed
4 if the claims arise from a first offense and the unlicensed
5 contractor pays an administrative fee calculated pursuant to
6 Paragraph (1) of Subsection A of this section. In addition to
7 the administrative fee, an additional ten percent of the amount
8 of the administrative fee shall be assessed as a service fee.

9 C. If the total amount of the fees to be paid by
10 the contractor pursuant to the provisions of Paragraph (1) of
11 Subsection A of this section is twenty-five dollars (\$25.00) or
12 less, the fees may be waived.

13 D. The director shall report every incident of
14 nonlicensed contracting work to the taxation and revenue
15 department.

16 E. A licensee who fails to display the contractor's
17 license number clearly on all written bids and contracts and
18 when applying for a building permit shall be assessed a penalty
19 of one hundred dollars (\$100). The penalty shall be paid to
20 the educational outreach and investigations fund.

21 F. A licensee or qualifying party who fails to
22 adhere to designated journeyman ratios established by rule
23 shall be subject to the following:

24 (1) for an initial violation, a warning
25 describing the violations. The licensee or qualifying party

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1 shall sign the warning acknowledging receipt and the
2 requirement to adhere to the designated journeyman ratios on
3 all projects;

4 (2) for a second violation, a penalty in the
5 amount of ten percent of the money or other value paid for the
6 work performed for which a designated journeyman ratio was
7 required; or

8 (3) for a third violation, summary suspension
9 subject to a hearing in accordance with the Uniform Licensing
10 Act, which hearing shall be set within ninety days of the
11 suspension date.

12 [~~A.~~] G. Notwithstanding [~~any~~] the provisions of the
13 Uniform Licensing Act or the Construction [~~Industries~~]
14 Inspection and Licensing Act to the contrary, the director or
15 the commission may, in addition to or instead of [~~revocation or~~
16 ~~suspension of~~] suspending or revoking a license [~~issued by the~~
17 ~~division~~] for [~~any~~] each cause specified in the Construction
18 [~~Industries~~] Inspection and Licensing Act, assess the licensee
19 an administrative penalty in the following amounts:

20 (1) where the dollar value of the contract or
21 work performed is five thousand dollars (\$5,000) or less, the
22 penalty shall be not less than three hundred dollars (\$300) or
23 more than five hundred dollars (\$500) per violation; or

24 (2) where the dollar value of the contract or
25 work performed is more than five thousand dollars (\$5,000), the

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1 penalty shall be [~~in an amount equal to~~] not more than ten
2 percent of the dollar amount of the contract or work performed
3 but not less than five hundred dollars (\$500) per violation.

4 [~~B.~~] H. If a person subject to the penalties under
5 Subsection [~~A.~~] G of this section previously has had [~~his~~] the
6 person's contractor's license suspended or revoked or has been
7 assessed an administrative penalty pursuant to Subsection [~~A.~~] G
8 of this section, that person shall be assessed twice the amount
9 specified in Paragraph (1) or (2) of Subsection [~~A.~~] G of this
10 section, as applicable.

11 [~~G.~~] I. Failure to pay an administrative penalty
12 upon the date set by the commission or the division shall
13 subject the offender to an additional penalty of up to one
14 hundred dollars (\$100) for each day the offender fails to
15 comply with the order, at the discretion of the commission or
16 the division. The attorney general shall institute an action
17 in the district court to recover the appropriate penalties."

18 SECTION 24. Section 60-13-31 NMSA 1978 (being Laws 1967,
19 Chapter 199, Section 34, as amended) is amended to read:

20 "60-13-31. TRADE BUREAUS CREATED.--There are created
21 [~~under~~] within the division the "electrical bureau", the
22 "[~~mechanical~~] mechanical-plumbing bureau", the "general
23 construction bureau" and the "liquefied petroleum gas bureau."

24 SECTION 25. Section 60-13-32 NMSA 1978 (being Laws 1967,
25 Chapter 199, Section 35, as amended) is amended to read:

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1 "60-13-32. TRADE BUREAUS--DEFINITIONS.--As used in the
2 Construction [~~Industries~~] Inspection and Licensing Act:

3 A. "electrical wiring" means all wiring,
4 conductors, fixtures, devices, conduits, appliances or other
5 equipment, including solar, wind or other electricity
6 generating equipment [~~such as solar electricity generating~~
7 ~~equipment of not over ten kilowatt capacity~~] used in connection
8 with the general distribution or use of electrical energy;

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

20 G.] B. "fixtures" [~~includes closet bowls~~] means
21 water closets, urinals, toilets, lavatories, bathtubs, showers,
22 kitchen sinks, laundry trays, [hot] water [tanks] heaters,
23 water softeners [urinals] or conditioners, bidets, service
24 sinks, shower pans, [drink] water fountains, water compressors,
25 water coolers [~~septic tanks or similar systems of sewage~~

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1 ~~disposal and such~~ or other ~~[similar]~~ fixtures used in plumbing
2 as designated by the ~~[mechanical]~~ mechanical-plumbing bureau;

3 ~~[D.]~~ C. "gas fitting" means the installing,
4 altering and repairing of consumers' gas piping downstream of
5 serving gas supplier meter and the installation of appliances
6 utilizing natural gas as fuel and their appurtenances; ~~[in or~~
7 ~~upon premises of the consumers;~~

8 ~~E.~~ ~~"softener" or "water conditioner" means any~~
9 ~~appliance, apparatus, fixture and equipment that is designed to~~
10 ~~soften, filter or change the mineral content of water, whether~~
11 ~~permanent or portable; and~~

12 ~~F.~~ ~~"certificate of competence" means evidence of~~
13 ~~competence issued by the division to a journeyman electrician,~~
14 ~~journeyman plumber, journeyman gas fitter, journeyman pipe~~
15 ~~fitter or journeyman welder working on pipelines, collection~~
16 ~~lines or compressor stations] provided that this subsection~~
17 ~~shall not be construed as prohibiting the installation by a~~
18 ~~"fixed works" licensee of service lines from the utility system~~
19 ~~to a point five feet outside the building or structure to be~~
20 ~~served by the gas fitting;~~

21 D. "mechanical" means the installing, altering or
22 repairing of all heating, ventilation and air conditioning air
23 handling units; refrigeration equipment and piping, fans, coils
24 and condensing units; self-contained packaged air conditioning
25 heating units; evaporative cooling units; solar energy systems;

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1 ductwork; hydronic heating, cooling and process piping; chilled
2 water systems; condensing water systems; process piping
3 systems; pressure vessels; heat exchangers; boilers; water
4 chillers; cooling towers; fuel oil tanks and fuel oil piping;
5 pneumatic and electric controls and control wiring; natural gas
6 piping; hot water systems; steam and hot water boilers; warm
7 air heating systems; chimney connections; flues; and listed gas
8 appliances; and

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

20 SECTION 26. Section 60-13-33 NMSA 1978 (being Laws 1967,
21 Chapter 199, Section 36, as amended) is amended to read:

22 "60-13-33. TRADE BUREAUS--GENERAL DUTIES AND POWERS.--The
23 trade bureaus shall:

24 A. cooperate in developing and administering
25 examinations for the licensing and certification of the

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1 occupations or trades assigned to their jurisdictions pursuant
2 to the Construction [~~Industries~~] Inspection and Licensing Act
3 [~~and provide those examinations and any related materials in~~
4 ~~both English and Spanish~~];

5 B. review all plans submitted on all projects
6 within their jurisdictions as required by rule; provided that a
7 plan submitted to the division or an authority having
8 jurisdiction is not a public record and shall not be subject to
9 disclosure pursuant to the Inspection of Public Records Act;

10 [~~B.~~] C. perform inspections of all occupations,
11 trades and activities within their jurisdictions;

12 [~~G.~~] D. be responsible for all administrative
13 duties and other duties necessary and incidental thereto
14 required in the Construction [~~Industries~~] Inspection and
15 Licensing Act, including those activities and duties assigned
16 to them by the director; and

17 [~~D.~~] E. recommend rules [~~and regulations~~] and
18 submit them to the division for approval by the commission and
19 promulgation by the division."

20 SECTION 27. Section 60-13-44 NMSA 1978 (being Laws 1967,
21 Chapter 199, Section 52, as amended) is amended to read:

22 "60-13-44. TRADE BUREAUS--STANDARDS--CONFLICTS.--

23 A. The electrical bureau shall recommend to the
24 director for submission to the commission for approval minimum
25 standards for the installation or use of electrical wiring for

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1 safety to life and property. The recommendations shall
2 substantially embody the applicable provisions of an electrical
3 code for safety to life and property promulgated by a
4 nationally recognized association and developed through an
5 open, balanced consensus process. Manufacturers may choose the
6 independent certification organization that they wish to
7 certify their products if the certification organization is
8 accredited by the American national standards institute or
9 other accreditation organization selected by the commission.

10 B. The ~~[mechanical]~~ mechanical-plumbing bureau
11 shall recommend to the director for submission to the
12 commission for approval minimum standards for the installation
13 of all fixtures, ~~[consumers']~~ gas ~~[pipe]~~ piping, appliances and
14 materials installed in the course of a ~~[mechanical]~~ mechanical-
15 plumbing installation for safety to life and property. The
16 recommendations shall ~~[be in substantial conformity with]~~
17 substantially embody codes and standards that are developed
18 through an open, balanced consensus process. Manufacturers may
19 choose the independent certification organization they wish to
20 certify their products if the certification organization is
21 accredited by the American national standards institute or
22 other accreditation organization selected by the commission.

23 C. The general construction bureau shall recommend
24 to the director for submission to the commission for approval
25 minimum standards for the construction, alteration or repair of

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1 buildings, except for those activities within the jurisdiction
2 of the electrical bureau or the [~~mechanical~~] mechanical-
3 plumbing bureau. The recommendations shall substantially
4 embody the applicable provisions of a nationally recognized
5 building code, for safety to life and property, that is
6 developed through an open, balanced consensus process and shall
7 give due regard to physical, climatic and other conditions
8 peculiar to New Mexico. The standards shall include the
9 authority to permit or deny occupancy of existing and new
10 buildings or structures and authority to accept or deny the use
11 of materials manufactured within or without the state.

12 D. The general construction bureau may [~~set minimum~~
13 ~~fees or charges for conducting tests~~] require the building
14 owner and the contractor to conduct tests to verify claims or
15 specifications of manufacturers.

16 [~~D.~~] E. The general construction bureau shall
17 recommend to the director, for submission to the commission
18 [~~additional~~] for approval, specifications for buildings
19 intended for public use or for any public building constructed
20 in the state through expenditure of state, county or municipal
21 funds, bonds [~~and~~] or other revenues, which specifications
22 shall substantially embody standards making the building
23 accessible to persons who have a physical disability, and the
24 specifications shall conform [~~substantially~~] with those
25 contained in a nationally recognized standard for making public

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1 facilities accessible to persons with a physical disability
2 that is developed through an open, balanced consensus process.
3 ~~[All orders and rules recommended by the general construction~~
4 ~~bureau and adopted by the commission under the provisions of~~
5 ~~this section shall be printed and distributed to all licensed~~
6 ~~contractors, architects and engineers and to the governor's~~
7 ~~commission on disability. The orders and rules shall take~~
8 ~~effect on a date fixed by the commission, which shall not be~~
9 ~~less than thirty days after their adoption by the commission,~~
10 ~~and shall have the force of law.~~

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

15 ~~F. All political subdivisions of the state are~~
16 ~~subject to the provisions of codes adopted and approved under~~
17 ~~the Construction Industries Licensing Act. Such codes~~
18 ~~constitute a minimum requirement for the codes of political~~
19 ~~subdivisions.]~~

20 F. The general construction bureau shall have
21 exclusive authority and the responsibility to ensure compliance
22 with the Construction Inspection and Licensing Act and its
23 rules, including plan review and permitting and inspecting for
24 all public buildings and buildings on public property.

25 G. The respective trade bureaus ~~[within their~~

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

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

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1 this subsection, the provisions of the applicable New Mexico
2 building codes adopted pursuant to the Construction
3 [~~Industries~~] Inspection and Licensing Act and the LPG and CNG
4 Act in effect at the applicable time, shall exclusively apply
5 and control as to the state's minimum standards, except for
6 codes [~~and~~] standards [~~for mobile housing units~~] and rules
7 established pursuant to the Manufactured Housing Act.

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~~]

11 I. An existing modular building or modular
12 component structure may have [~~their~~] its use or occupancy
13 continued if such use or occupancy was legal on the effective
14 date of [~~that act~~] the certificate of occupancy or the date the
15 final inspection was issued; provided that such continued use
16 or occupancy [~~is not dangerous to life. Any~~] does not affect
17 life or property safety. A change in the use or occupancy or
18 [~~any~~] a major alteration or repair of [~~a modular home or~~
19 premanufactured home] an existing modular structure or modular
20 component structure shall comply with all current codes and
21 standards. [~~adopted under the Construction Industries~~
22 Licensing Act]

23 J. The commission shall review all recommendations
24 made under the provisions of this section and shall by rule
25 [~~adopt~~] approve standards and codes that substantially comply

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1 with the requirements of this section [~~that apply~~] pursuant to
2 the recommendations of the trade bureaus."

3 SECTION 28. Section 60-13-45 NMSA 1978 (being Laws 1967,
4 Chapter 199, Section 53, as amended) is amended to read:

5 "60-13-45. TRADE BUREAUS--PERMITS.--

6 A. The trade bureaus within their respective
7 jurisdictions may require a permit to be secured and
8 conspicuously posted prior to any construction, installation,
9 alteration, repair or addition to or within [~~any~~] a building,
10 structure or [~~premises~~].

11 ~~B. No permit shall be required for the performance~~
12 ~~of any of the following classes of work:~~

13 ~~(1) minor repairs, replacement of lamps, the~~
14 ~~connection of portable electrical equipment to suitable~~
15 ~~receptacles which are permanently installed, minor repairs or~~
16 ~~replacement of or to faucets, taps or jets or connection of~~
17 ~~portable equipment to suitable connections or inlets which have~~
18 ~~been permanently installed;~~

19 ~~(2) installation of temporary wiring for~~
20 ~~testing electrical equipment or apparatus or installation of~~
21 ~~temporary fixtures or devices for testing fixtures, equipment,~~
22 ~~apparatus or appliances;~~

23 ~~(3) installation, alteration or repair of~~
24 ~~electrical equipment for the operation of signals or the~~
25 ~~transmission of intelligence by wire; and~~

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1 ~~penal sum of five hundred dollars (\$500) or more, but not to~~
2 ~~exceed fifteen hundred dollars (\$1,500), with such bureau named~~
3 ~~as obligee and conditioned for the payment of inspection fees~~
4 ~~provided in the Construction Industries Licensing Act. Nothing~~
5 ~~in] This section [shall] does not preclude [municipalities] an~~
6 authority having jurisdiction from making inspections in
7 accordance with the Construction [Industries] Inspection and
8 Licensing Act or its rules [~~and regulations pursuant to that~~
9 ~~act]~~ or from establishing a schedule of fees to be paid by an
10 applicant for a permit, so long as the authority complies with
11 all provisions of the Construction Inspection and Licensing
12 Act.

13 E. In the event that the division assumes
14 inspections [~~of]~~ in a [municipal or county] jurisdiction of a
15 political subdivision, the permit fees shall be paid directly
16 to the division.

17 F. Every building permit or notice of permit
18 required under the provisions of a building code shall:

19 (1) clearly indicate the name and address of
20 the owner of the property;

21 (2) contain a legal description of the
22 property being built upon, either by "lot and block"
23 description in a subdivision, by street address in a
24 municipality or by township, range and section numbers if
25 outside a municipality or platted subdivision;

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1 (3) contain the name, address and license
2 number of the general contractor, where applicable; and
3 (4) be prominently displayed on the site or
4 accessible project trailer where the construction or work is to
5 be performed.

6 G. A permit is not required for the performance of
7 any of the following classes of work:

- 8 (1) minor repairs as determined by the
9 specific trade bureau chief;
10 (2) replacement of lamps;
11 (3) the connection of portable electrical
12 equipment to suitable receptacles that are permanently
13 installed;
14 (4) minor repairs to faucets, taps or jets; or
15 (5) connection of portable equipment."

16 SECTION 29. Section 60-13-46 NMSA 1978 (being Laws 1967,
17 Chapter 199, Section 54, as amended) is amended to read:

18 "60-13-46. TRADE BUREAUS--ANNUAL PERMITS.--

19 A. In lieu of an individual permit for each
20 [~~installation, alteration~~] maintenance or repair of mechanical-
21 plumbing or electrical systems, an annual permit [~~shall~~] may be
22 issued, upon application, to [~~any~~] a person, commercial or
23 industrial plant or enterprise, governmental agency or
24 political subdivision of the state that regularly employs one
25 or more certified journeymen for [~~installation, alteration~~]

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1 maintenance or repair on premises owned or occupied by the
2 applicant for the permit or by a contractor on behalf of the
3 owner of the premises.

4 B. The application for an annual permit shall be
5 [~~in writing~~] submitted on a form prescribed by the division to
6 the appropriate trade bureau [~~in whose jurisdiction the work is~~
7 ~~to be done~~].

8 C. Annual permit holders shall keep a record of all
9 work done under the annual permit, and the appropriate trade
10 bureau or its authorized employees shall have access to the
11 record.

12 D. A reasonable fee established by the division
13 shall be paid for each annual permit at the time of issuance.
14 Inspection fees [~~shall~~] may be collected at the time of each
15 regular inspection of [~~installations, alterations~~] the
16 maintenance or repairs made under the annual permit. Fees
17 received by a bureau under this subsection shall be remitted to
18 the division.

19 E. Annual permits expire one year from their date
20 of issuance."

21 SECTION 30. Section 60-13-47 NMSA 1978 (being Laws 1967,
22 Chapter 199, Section 55, as amended) is amended to read:

23 "60-13-47. TRADE BUREAUS--CONNECTION TO INSTALLATION.--

24 A. [~~Except where work is done under an annual~~
25 ~~permit~~] No public utility shall make a connection from a supply

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1 of water or gas to an installation for which a permit is
2 required, or ~~[which]~~ that has been disconnected or ordered to
3 be disconnected by the trade bureau chief or certified building
4 official having jurisdiction, without the authorization of the
5 trade bureau or certified building official having
6 jurisdiction.

7 ~~[B. The public utility may make a connection from a~~
8 ~~supply of water or gas to an installation under the following~~
9 ~~circumstances:~~

10 ~~(1) if within seven days after notification to~~
11 ~~the appropriate trade bureau of the completion of any work or~~
12 ~~installation the bureau has failed to approve or disapprove the~~
13 ~~connection; or~~

14 ~~(2) if an installation or work is not located~~
15 ~~in any territory where there is an authorized inspector;~~
16 ~~provided, however, before any such connection is made by the~~
17 ~~public utility, the public utility must have received a written~~
18 ~~statement from the licensee declaring that the installation or~~
19 ~~work conforms with the provisions of the Construction~~
20 ~~Industries Licensing Act and the orders, rules and regulations,~~
21 ~~codes and minimum standards made pursuant to that act. The~~
22 ~~public utility shall immediately report to the proper trade~~
23 ~~bureau the receipt and contents of the statement. If it is~~
24 ~~discovered by the trade bureau that the declaration made in the~~
25 ~~statement is false, the trade bureau shall order the licensee~~

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1 ~~making the statement to rectify the defects within five days~~
2 ~~after receipt of the written notice thereof from the bureau.~~

3 G.] B. No public or municipally owned electric
4 utility shall make a connection from a supply of electricity
5 for which a permit is required without the approval of the
6 electrical bureau or ~~[its authorized representative]~~ the
7 authority having jurisdiction. In the event of an emergency,
8 the electrical contractor shall issue a pre-final permit to the
9 serving utility authorizing the service to be reconnected. The
10 electrical contractor shall report the emergency on the next
11 working day to the electrical bureau or ~~[its authorized~~
12 ~~representative]~~ the authority having jurisdiction for
13 inspection."

14 SECTION 31. Section 60-13-52 NMSA 1978 (being Laws 1977,
15 Chapter 377, Section 6, as amended) is amended to read:

16 "60-13-52. PENALTY--MISDEMEANOR.--

17 A. ~~[Any]~~ A person who acts in the capacity ~~[as]~~ of
18 a contractor within the meaning of the Construction
19 ~~[Industries]~~ Inspection and Licensing Act without a license
20 ~~[required by that act]~~ issued by the division and classified to
21 perform work authorized by the particular trade bureau, and
22 ~~[any]~~ a person who ~~[holds himself out as]~~ represents that the
23 person is able to contract or act in the capacity of a sales
24 representative of a ~~[contractor]~~ contracting entity, which
25 ~~[contractor]~~ contracting entity is without a license as

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1 required by that act, is strictly liable and guilty of a
2 misdemeanor, not a petty misdemeanor, as defined in Subsection
3 B of Section 30-1-6 NMSA 1978, and upon conviction, [~~therefor~~]
4 the court shall:

5 (1) where the dollar value of the contracting
6 work is [~~five thousand dollars (\$5,000)~~] ten thousand dollars
7 (\$10,000) or less, sentence the person to be imprisoned [~~in the~~
8 ~~county jail for a term of ninety days~~] for a definite term of
9 less than one year or to the payment of a fine of not less than
10 [~~three hundred dollars (\$300) nor more than five hundred~~
11 ~~dollars (\$500)~~] one thousand dollars (\$1,000) or to both [~~such~~]
12 imprisonment and fine in the discretion of the court; and

13 (2) where the dollar value of the contracting
14 work exceeds [~~five thousand dollars (\$5,000)~~] ten thousand
15 dollars (\$10,000), sentence the person to be imprisoned [~~in the~~
16 ~~county jail for a term of six months~~] for a definite term of
17 less than one year or to the payment of a fine of ten percent
18 of the dollar value of the contracting work or to both [~~such~~]
19 imprisonment and fine in the discretion of the court.

20 B. [~~Any~~] A person who acts in the capacity [~~as~~] of
21 a journeyman within the meaning of the Construction
22 [~~Industries~~] Inspection and Licensing Act without holding a
23 valid journeyman certificate [~~of competence issued by the~~
24 ~~division~~] for the classification for which the journeyman acts
25 is guilty of a misdemeanor, not a petty misdemeanor, as defined

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1 in Subsection B of Section 30-1-6 NMSA 1978, and upon
2 conviction [~~therefor~~], the court shall sentence the person
3 pursuant to Subsection A of Section 31-19-1 NMSA 1978 to be
4 imprisoned [~~in the county jail for a term of ninety days~~] for a
5 definite term of less than one year or to payment of a fine of
6 not less than [~~one hundred dollars (\$100) nor more than three~~
7 ~~hundred dollars (\$300)] one thousand dollars (\$1,000) or to
8 both [~~such~~] imprisonment and fine in the discretion of the
9 court.~~

10 C. [~~Any~~] A person who, after having been convicted
11 and sentenced in accordance with the provisions of either
12 Subsection A or [~~Subsection~~] B of this section, is again
13 convicted pursuant to the provisions of this section shall be
14 sentenced to twice the applicable penalty imposed by the
15 provisions of this section.

16 D. A person who provides a service without a
17 license as required by the Construction Inspection and
18 Licensing Act shall have no right to file or claim a mechanic's
19 lien for that service.

20 E. A contractor who reports to a state agency or
21 other client that an employee is an independent contractor or
22 who, for the purposes of a program administered by a state
23 agency, intentionally and willfully treats or otherwise lists
24 an employee as an independent contractor when the employee's
25 status does not meet the standards indicative of an independent

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1 contractor is guilty of a misdemeanor, not a petty misdemeanor,
2 as defined in Subsection B of Section 30-1-6 NMSA 1978, and
3 upon conviction, shall be punished by a fine of not more than
4 one thousand dollars (\$1,000) or by imprisonment for a definite
5 term of less than one year or both; provided that this
6 subsection shall not apply to recovery in a tort action or
7 change the common law interpretation of independent contractor
8 as it relates to tort liability.

9 ~~[D-]~~ F. In the case of a first conviction under
10 this section, the court may impose a deferred sentence on the
11 condition that the person comply with the provisions for
12 licensure pursuant to Subsection ~~[D]~~ N of Section 60-13-14 NMSA
13 1978.

14 G. Any penalty assessed by the court shall be paid
15 to the agency that prosecuted the complaint. If the division
16 prosecutes a complaint, any penalty shall be paid into the
17 educational outreach and investigations fund."

18 **SECTION 32.** Section 60-13-53 NMSA 1978 (being Laws 1967,
19 Chapter 199, Section 60, as amended) is amended to read:

20 "60-13-53. COMMISSION OR DIVISION--POWERS OF INJUNCTION--
21 MANDAMUS.--The commission or division may enforce in the
22 district court of the county in which the offense was committed
23 the provisions of the Construction ~~[Industries]~~ Inspection and
24 Licensing Act by injunction, mandamus or any proper legal
25 proceeding."

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1 SECTION 33. Section 60-13-57 NMSA 1978 (being Laws 1973,
2 Chapter 229, Section 5, as amended) is amended to read:

3 "60-13-57. HEARING OFFICER AUTHORIZED.--The commission
4 [~~may~~] shall designate a hearing officer to preside over and
5 take evidence at any hearing held pursuant to the Construction
6 [~~Industries~~] Inspection and Licensing Act. Hearing officers
7 may be employees or individuals hired outside the division by
8 contract or on a case-by-case basis as determined by the
9 commission."

10 SECTION 34. Section 61-1-3.1 NMSA 1978 (being Laws 1981,
11 Chapter 349, Section 3, as amended) is amended to read:

12 "61-1-3.1. LIMITATIONS.--

13 A. An action that would have any of the effects
14 specified in Subsections D through N of Section 61-1-3 NMSA
15 1978 or an action related to unlicensed activity shall not be
16 initiated by a board later than two years after the discovery
17 by the board of the conduct that would be the basis for the
18 action, except as provided in [~~Subsection~~] Subsections C and E
19 of this section.

20 B. The time limitation contained in Subsection A of
21 this section shall be tolled by any civil or criminal
22 litigation in which the licensee or applicant is a party
23 arising from substantially the same facts, conduct or
24 transactions that would be the basis for the board's action.

25 C. The New Mexico state board of psychologist

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1 examiners shall not initiate an action that would result in any
2 of the actions specified in Subsections D through N of Section
3 61-1-3 NMSA 1978 later than five years after the conduct of the
4 psychologist or psychologist associate that is the basis for
5 the action. However, if the conduct that is the basis for the
6 action involves a minor or a person adjudicated incompetent,
7 the action shall be initiated, in the case of a minor, no later
8 than one year after the minor's eighteenth birthday or five
9 years after the conduct, whichever is last and, in the case of
10 a person adjudicated incompetent, one year after the
11 adjudication of incompetence is terminated or five years after
12 the conduct, whichever is last.

13 D. The New Mexico public accountancy board shall
14 not initiate an action under the 1999 Public Accountancy Act
15 that would result in any of the actions specified in
16 Subsections D through N of Section 61-1-3 NMSA 1978 later than
17 two years following the discovery by the board of a violation
18 of that act.

19 E. The construction industries division of the
20 regulation and licensing department shall not initiate an
21 action that would result in any of the actions specified in
22 Subsections D through N of Section 61-1-3 NMSA 1978 later than
23 two years following the receipt by the division of a written
24 complaint that would be the basis of the action."

25 SECTION 35. A new section of Chapter 60, Article 13 NMSA

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1 1978 is enacted to read:

2 "[NEW MATERIAL] COMPLIANCE RECOVERY FUND.--The "compliance
3 recovery fund" is created in the state treasury. The fund
4 consists of compliance recovery fees collected by the division.
5 Money in the fund is appropriated to the division to correct
6 code violations or to compensate complainants as provided in
7 Sections 37 and 38 of this 2019 act. The division shall
8 administer the fund. Expenditures from the fund shall be made
9 on warrants drawn by the secretary of finance and
10 administration pursuant to vouchers signed by the director.
11 The fund may maintain a balance not to exceed five million
12 dollars (\$5,000,000) at the end of any fiscal year. Amounts
13 exceeding five million dollars (\$5,000,000) at the end of a
14 fiscal year shall revert to the general fund."

15 SECTION 36. A new section of Chapter 60, Article 13 NMSA
16 is enacted to read:

17 "[NEW MATERIAL] COMPLIANCE RECOVERY FEE.--

18 A. Upon initial licensure and as a condition of
19 renewal, each licensee issued a license pursuant to Section
20 60-13-14 NMSA 1978 shall pay a fee to the division, which shall
21 be known as the "compliance recovery fee". The division shall
22 collect the fee and deposit it in the compliance recovery fund.
23 A licensee in inactive status shall pay that fee on a prorated
24 basis when the license is reactivated.

25 B. Immediately, but no later than sixty days

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1 following the effective date of this act, every licensee shall
2 pay a one-time prorated compliance recovery fee, which shall
3 equal five dollars fifty-five cents (\$5.55) multiplied by the
4 number of months left before the license expires. Thereafter,
5 upon renewal, a licensee shall pay the full amount of the
6 compliance recovery fee established pursuant to Subsections A
7 and C of this section.

8 C. The initial compliance recovery fee shall be two
9 hundred dollars (\$200). On each third anniversary of the date
10 of enactment of this section, the division shall consider all
11 expenses incurred by the division in satisfying claims
12 previously paid from the compliance recovery fund and establish
13 the compliance recovery fee amount for the following three-year
14 period. The division shall adjust the compliance recovery fee
15 as necessary to ensure that sufficient funds are available to
16 pay all claims, but the fee shall not exceed two hundred fifty
17 dollars (\$250)."

18 SECTION 37. A new section of Chapter 60, Article 13 NMSA
19 1978 is enacted to read:

20 "[NEW MATERIAL] COMPLIANCE RECOVERY FUND--PROCEDURE FOR
21 FILING CODE VIOLATION CLAIM.--

22 A. A person may file a written complaint with the
23 division alleging a code violation by a licensee within five
24 years from the date of termination of the work that is the
25 subject of the complaint. The division shall investigate each

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1 complaint and shall issue a determination as to whether a code
2 violation has occurred. If the division determines that a code
3 violation occurred, the licensee that is the subject of the
4 complaint shall have ten days to:

5 (1) correct the code violation, as prescribed
6 by the division in writing; or

7 (2) compensate the complainant for the cost of
8 correcting the violation.

9 B. If the licensee fails to timely compensate the
10 complainant or correct the code violation, the division shall
11 obtain at least three written bids, if practicable, from
12 qualified licensees and shall select a bid to correct the code
13 violation. The division shall pay the selected licensee from
14 the compliance recovery fund only for actual costs of
15 correcting the code violation, but not attorney fees.

16 C. To correct code violations pursuant to this
17 section, payments from the compliance recovery fund shall not
18 exceed twenty-five thousand dollars (\$25,000) for any single
19 contract or fifty thousand dollars (\$50,000) in the aggregate
20 per licensee.

21 D. Failure of a complainant to comply with the
22 provisions of Subsection A of this section or comply with the
23 rules issued pursuant to this section may preclude any payment
24 to the complainant from the compliance recovery fund."

25 SECTION 38. A new section of Chapter 60, Article 13 NMSA

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1 1978 is enacted to read:

2 "[NEW MATERIAL] COMPLIANCE RECOVERY FUND--PROCEDURES FOR
3 FILING COMPENSATION CLAIM.--

4 A. A person may seek compensation from the
5 compliance recovery fund for a loss resulting from a violation
6 by a licensee of Paragraph (3), (4), (8), (13), (17) or (18) of
7 Subsection A of Section 60-13-23 NMSA 1978 as determined by a
8 final judgment from a court of competent jurisdiction.

9 B. A person seeking compensation pursuant to this
10 section shall:

11 (1) notify the division in writing and by
12 certified mail when that person files an action in a court of
13 competent jurisdiction alleging a violation of Paragraph (3),
14 (4), (8), (13), (17) or (18) of Subsection A of Section
15 60-13-23 NMSA 1978;

16 (2) submit to the division a certified copy of
17 the final judgment finding a violation of Paragraph (3), (4),
18 (8), (13), (17) or (18) of Subsection A of Section 60-13-23
19 NMSA 1978, excluding a consent judgment, within five years from
20 the date of the final judgment; and

21 (3) submit to the division an affidavit and
22 any other information required by the division disclosing any
23 money recovered, including any money:

- 24 (a) recovered from the judgment debtor;
- 25 (b) recovered in an out-of-court

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1 settlement;

2 (c) recovered from a bonding company;

3 and

4 (d) included in the judgment for payment
5 of attorney fees and costs.

6 C. The director shall issue a determination:

7 (1) as to whether a court of competent
8 jurisdiction has determined that the complainant incurred a
9 loss resulting from a violation by a licensee of Paragraph (3),
10 (4), (8), (13), (17) or (18) of Subsection A of Section
11 60-13-23 NMSA 1978; and

12 (2) of the amount of actual costs that the
13 complainant has not recovered.

14 D. The division shall pay the complainant for the
15 actual costs not recovered by the complainant, as determined by
16 the division, but not attorney fees.

17 E. To compensate complainants pursuant to this
18 section, payments from the compliance recovery fund shall not
19 exceed fifty thousand dollars (\$50,000) per judgment from a
20 court of competent jurisdiction.

21 F. Failure of a person seeking compensation to
22 comply with the provisions of this section or rules issued
23 pursuant to this section may preclude any payment to the
24 complainant from the compliance recovery fund."

25 SECTION 39. A new section of Chapter 60, Article 13 NMSA

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1 1978 is enacted to read:

2 "[NEW MATERIAL] SUSPENSION OF LICENSE.--Upon payment of
3 money from the compliance recovery fund to a complainant, the
4 license and certificate of qualification of the licensee and
5 qualifying party that is the subject of the complaint shall be
6 immediately summarily suspended. A hearing in accordance with
7 the Uniform Licensing Act shall be convened within ninety days
8 of the date of payment from the compliance recovery fund. The
9 license and certificate of qualification of the licensee and
10 qualifying party shall remain suspended until the earlier of
11 the date:

12 A. the fund is reimbursed the money disbursed from
13 the compliance recovery fund for payment to the complainant,
14 including legal interest; or

15 B. an order is issued by the commission directing
16 that the license or certificate of qualification of the
17 licensee or qualifying party be reinstated."

18 SECTION 40. A new section of Chapter 60, Article 13 NMSA
19 1978 is enacted to read:

20 "[NEW MATERIAL] COMPLIANCE RECOVERY FUND--CODE
21 VIOLATIONS--DISCIPLINE.--

22 A. It is a violation of the Construction Inspection
23 and Licensing Act for a licensee to fail to, within ten days
24 from the date the director notifies the licensee that a code
25 violation occurred:

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1 (1) correct the code violation, as prescribed
2 by the director in writing; or

3 (2) compensate the complainant for the cost of
4 correcting a code violation.

5 B. It is a violation of the Construction Inspection
6 and Licensing Act for a licensee to fail to pay, immediately or
7 within time limits as agreed to in writing by the parties, a
8 final judgment from a court of competent jurisdiction resulting
9 from a violation by a licensee of Paragraph (3), (4), (8),
10 (13), (17) or (18) of Subsection A of Section 60-13-23 NMSA
11 1978.

12 C. A violation of this section shall subject the
13 licensee's license and qualifying party's certificate to
14 possible revocation."

15 SECTION 41. A new section of Chapter 60, Article 13 NMSA
16 1978 is enacted to read:

17 "[NEW MATERIAL] COMPLIANCE RECOVERY FUND DISBURSEMENT--
18 EVIDENCE OF INCOMPETENCE--SUSPENSION AND REVOCATION.--

19 A. Three disbursements from the compliance recovery
20 fund or payments totaling fifty thousand dollars (\$50,000)
21 resulting from code violations by a licensee are substantial
22 evidence of the licensee's and qualifying party's incompetence
23 and shall subject the licensee's license and qualifying party's
24 certificate to possible revocation.

25 B. Three disbursements from the compliance recovery

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1 fund or payments totaling fifty thousand dollars (\$50,000) from
2 the compliance recovery fund resulting from a violation of
3 Paragraph (3), (4), (8), (13), (17) or (18) of Subsection A of
4 Section 60-13-23 NMSA 1978 by a licensee shall be deemed
5 substantial evidence of incompetence and subject the licensee's
6 license and qualifying party's certificate to possible
7 revocation. If a court of competent jurisdiction determines
8 that the licensee or qualifying party engaged in tortious
9 conduct, bad faith or intentional or willful acts, the interest
10 shall be computed at the rate of fifteen percent per year.

11 C. Upon the third disbursement or aggregate
12 payments totaling fifty thousand dollars (\$50,000) from the
13 compliance recovery fund, the licensee's license and the
14 qualifying party's certificate shall be suspended and subject
15 to a hearing according to the Uniform Licensing Act for
16 possible revocation."

17 SECTION 42. A new section of Chapter 60, Article 13 NMSA
18 1978 is enacted to read:

19 "[NEW MATERIAL] COMPLIANCE RECOVERY FUND DISBURSEMENT--
20 REIMBURSEMENT REQUIREMENT--PENALTY.--The division shall not be
21 required to recognize the experience of the qualifying party
22 required pursuant to Section 60-13-14 NMSA 1978 and may refuse
23 to issue a new license to a former licensee, its owners,
24 principals or qualifying parties who were party to a complaint
25 or judgment if, upon payment of money from the compliance

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1 recovery fund as a result of a violation by that former
2 licensee, the fund is not reimbursed in the full amount paid,
3 plus the required interest."

4 SECTION 43. REPEAL.--Sections 60-13-9 through 60-13-10.2,
5 60-13-12, 60-13-13, 60-13-13.2, 60-13-15, 60-13-21, 60-13-24
6 through 60-13-30, 60-13-36, 60-13-38, 60-13-39, 60-13-41,
7 60-13-42, 60-13-48.1, 60-13-49, 60-13-51, 60-13-54, 60-13-55
8 and 60-13-59 NMSA 1978 (being Laws 1978, Chapter 73, Section 1,
9 Laws 1975, Chapter 14, Section 3, Laws 1981, Chapter 245,
10 Section 1, Laws 2007, Chapter 38, Section 6, Laws 1967, Chapter
11 199, Sections 15 and 16, Laws 1983, Chapter 105, Section 6,
12 Laws 1977, Chapter 245, Section 177, Laws 1967, Chapter 199,
13 Sections 24, 27 through 33, 39, 41, 42, 49 and 50, Laws 1983,
14 Chapter 105, Section 22, Laws 1967, Chapter 199, Section 57,
15 Laws 1971, Chapter 233, Section 1, Laws 1967, Chapter 199,
16 Sections 61 and 62 and Laws 1987, Chapter 209, Section 1, as
17 amended) are repealed.

18 SECTION 44. EMERGENCY.--It is necessary for the public
19 peace, health and safety that this act take effect immediately.