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HOUSE BILL 702

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

EDDIE CORLEY

AN ACT

RELATING TO SAFETY; CREATING THE ELEVATOR BUREAU; PROVIDING FOR INSPECTION OF ELEVATORS AND ESCALATORS; AMENDING THE CONSTRUCTION INDUSTRIES LICENSING ACT; MAKING AN APPROPRIATION.

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

Section 1. Section 60-13-2 NMSA 1978 (being Laws 1967, Chapter 199, Section 2, as amended) is amended to read:

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

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

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

C. "jurisdictional conflict" means any conflict

1 between or among trade bureaus as to the exercise of
2 jurisdiction over an occupation or trade for which a license is
3 required under the provisions of the Construction Industries
4 Licensing Act;

5 D. "person" includes an individual, firm,
6 partnership, corporation, association or other organization, or
7 any combination thereof;

8 E. "qualifying party" means any individual who
9 submits to the examination for a license to be issued under the
10 Construction Industries Licensing Act and who is responsible for
11 the licensee's compliance with the requirements of that act and
12 with the rules, regulations, codes and standards adopted and
13 promulgated in accordance with that act;

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

16 G. "journeyman" means any individual who is properly
17 certified by the electrical bureau or the mechanical bureau, as
18 required by law, to engage in or work at his trade;

19 H. "apprentice" means an individual who is engaged,
20 as his principal occupation, in learning and assisting in a
21 trade;

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

25 J. "public use" means the use or occupancy of any

Underscored material = new
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1 structure, facility or ~~manufactured commercial~~ unit to which the
2 general public, as distinguished from residents or employees,
3 has access;

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

5 L. "building" means any structure built for use or
6 occupancy by persons or property, including ~~[but not limited to]~~
7 ~~manufactured commercial units and modular homes~~ or
8 premanufactured homes designed to be placed on permanent
9 foundations whether mounted on skids or permanent foundations or
10 whether constructed on or off the site of location;

11 M "inspection agency" means a firm, partnership,
12 corporation, association or any combination thereof approved in
13 accordance with regulations as having the personnel and
14 equipment available to adequately inspect elevators and
15 escalators on a regular basis or inspect for the proper
16 construction of ~~manufactured commercial units, modular homes~~ or
17 premanufactured homes;

18 N. "director" means the administrative head of the
19 division;

20 O. "chief" means the administrative head of a trade
21 bureau;

22 P. "commission" means the construction industries
23 commission;

24 Q. "manufactured commercial unit" means a movable or
25 portable housing structure over thirty-two feet in length or

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1 over eight feet in width [~~which~~] that is constructed to be towed
2 on its own chassis and designed so as to be installed without a
3 permanent foundation for use as an office or other commercial
4 purpose and [~~which~~] that may include one or more components that
5 can be retracted for towing purposes and subsequently expanded
6 for additional capacity, or two or more units separately towable
7 but designed to be joined into one integral unit, as well as a
8 single unit, but [~~which~~] that does not include any movable or
9 portable housing structure over twelve feet in width and forty
10 feet in length [~~which~~] that is used for nonresidential purposes.
11 "Manufactured commercial unit" does not include modular or
12 premanufactured homes, built to Uniform Building Code standards,
13 designed to be permanently affixed to real property; and

14 R. "code" means a body or compilation of provisions
15 or standards [~~which~~] that govern contracting or some aspect of
16 contracting; [~~which~~] that provide for safety and protection of
17 life and health; [~~which~~] that are approved by a nationally
18 recognized standards association; and [~~which standards~~] that are
19 in general use in the United States or in a clearly defined
20 region of the United States. The term "code" includes the
21 Uniform Building Code, the National Electrical Code, the Uniform
22 Plumbing and Mechanical Code, the LP Gas Code and any other
23 codes adopted by the commission."

24 Section 2. Section 60-13-6 NMSA 1978 (being Laws 1977,
25 Chapter 245, Section 168, as amended) is amended to read:

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1 "60-13-6. CONSTRUCTION INDUSTRIES COMMISSION CREATED--
2 MEMBERSHIP-- DUTIES. --

3 A. There is created within the division the
4 "construction industries commission". The commission shall be
5 composed of [~~nine~~] ten voting members who shall serve at the
6 pleasure of the governor. Members shall be appointed by the
7 governor, with the advice and consent of the senate as follows:

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

10 (2) one member who is a licensed electrical
11 contractor;

12 (3) one member who is a licensed mechanical
13 contractor;

14 (4) one member who is a licensed and practicing
15 architect;

16 (5) one member who is a licensed elevator
17 inspector;

18 [~~(5)~~] (6) one member who is a practicing
19 general contractor;

20 [~~(6)~~] (7) one member who is a representative of
21 the liquefied petroleum gas industry;

22 [~~(7)~~] (8) one resident of the state who is not
23 a licensed contractor or certified journeyman who shall
24 represent the people of New Mexico;

25 [~~(8)~~] (9) one member who is a representative of

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1 the subcontracting industry of the state; and
2 [~~(9)~~] (10) one member who is a representative
3 of organized labor.

4 Members shall be appointed to provide adequate repre-
5 sentation of all geographic areas of the state.

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

9 C. The commission shall annually elect a chairman
10 and vice chairman from its membership. The director shall serve
11 as the executive secretary of the commission.

12 D. The commission shall meet bimonthly or at the
13 call of the chairman.

14 E. The commission shall establish policy for the
15 division. It shall advise on, review, coordinate and approve or
16 disapprove all rules, regulations, standards, codes and
17 licensing requirements [~~which~~] that are subject to the approval
18 of the commission under the provisions of the Construction
19 Industries Licensing Act or the LPG and CNG Act so as to insure
20 that uniform codes and standards are promulgated and conflicting
21 provisions are avoided. The commission shall:

22 (1) revoke or suspend, for cause, any license
23 or certificate of qualification issued under the provisions of
24 the Construction Industries Licensing Act or the LPG and CNG
25 Act; and

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1 (2) define and establish all license
2 classifications. The licensee shall be limited in his bidding
3 and contracting as provided in Subsection B of Section
4 60-13-12 NMSA 1978. Any licensee, subsequent to the issuance of
5 a license, may make application for additional classification
6 and be licensed in more than one classification if he meets the
7 prescribed qualification for the additional classification. "

8 Section 3. Section 60-13-31 NMSA 1978 (being Laws 1967,
9 Chapter 199, Section 34, as amended) is amended to read:

10 "60-13-31. TRADE BUREAUS CREATED. -- There are created under
11 the division the "electrical bureau", the "mechanical bureau",
12 the "general construction bureau", the "elevator bureau" and the
13 "liquefied petroleum gas bureau". "

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

16 "60-13-41. INSPECTORS-- DESIGNATED INSPECTION AGENCIES. --

17 A. State inspectors shall be employed by the
18 director.

19 B. Qualifications and job descriptions for
20 inspectors for the state, municipalities and all other political
21 subdivisions shall be prescribed by the commission. The
22 commission shall also promulgate rules and regulations
23 establishing a recertification incentive plan ~~[whi-eh]~~ that
24 provides for salary increases for state inspectors based on
25 education and training and additional qualifications.

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1 C. The division may appoint inspection agencies to
2 inspect the construction, installation, alteration or repair of
3 manufactured commercial units, modular homes and premanufactured
4 homes, including those manufacturers whose business premises are
5 without the state, to ensure that the New Mexico standards of
6 construction and installation are adhered to and that the
7 quality of construction meets all New Mexico codes and
8 standards. If the inspection agency has no place of business
9 within the state, it shall file a written statement with the
10 secretary of state setting forth its name and business address
11 and designating the secretary of state as its agent for the
12 service of process.

13 D. The division may appoint inspection agencies to
14 inspect the construction, installation, alteration, repair and
15 general maintenance of elevators and escalators, to ensure that
16 elevators and escalators meet all New Mexico codes and
17 standards.

18 ~~[D.]~~ E. The division may enter into reciprocal
19 agreements with other jurisdictions having comparable codes,
20 standards and inspection requirements for the inspection of the
21 construction, alteration or repair of modular homes,
22 premanufactured homes and manufactured commercial units.

23 ~~[E.]~~ F. The division may, with the approval of the
24 commission, establish qualifications for inspectors certified to
25 inspect in more than one bureau's jurisdiction. "

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1 Section 5. Section 60-13-42 NMSA 1978 (being Laws 1967,
2 Chapter 199, Section 50, as amended) is amended to read:

3 "60-13-42. AUTHORITY OF INSPECTORS- -LIMITATION. - -

4 A. A state certified inspector may, during
5 reasonable hours, enter any building or go upon any premises in
6 the discharge of his official duties for the purpose of making
7 an inspection of work performed to determine that general
8 maintenance requirements have been complied with or for the
9 purpose of testing any installation authorized within the
10 jurisdiction of his trade certification. He may cut or
11 disconnect, or have cut or disconnected in cases of emergency,
12 any installation or device when necessary for safety to life or
13 property or where the installation may interfere with the work
14 of a fire department.

15 B. The inspector may disconnect or order the
16 discontinuance of any service to any installation, device,
17 appliance or equipment found to be dangerous to life or property
18 because it is defective or is incorrectly installed, until the
19 installation, device, appliance or equipment is made safe and is
20 approved by the inspector.

21 C. The inspector may order the correction of any
22 defects or any incorrect installation ~~[which]~~ that prompted the
23 disconnection and discontinuance of service.

24 D. In all cases where disconnection is made, a
25 notice shall be attached by the inspector to the installation,

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1 device, appliance or equipment disconnected, which notice shall
2 state that the same has been disconnected by or on order of the
3 inspector and the reason for the disconnection. It is unlawful
4 for any person to remove the notice or to use the installation,
5 device, appliance or equipment without authorization of an
6 inspector.

7 E. The powers granted by this section to any
8 municipal inspector may be exercised by him only in the
9 localities where he is authorized to make inspection.

10 F. The division shall by regulation adopt official
11 inspection stickers or medallions for the purpose of identifying
12 [~~those~~] elevators, escalators or modular homes and
13 premanufactured homes [~~which~~] that have been inspected and found
14 to comply with all requirements of the state codes and
15 standards. State inspection and acceptance for use of modular
16 homes and premanufactured homes shall exclusively apply to the
17 use and occupancy of such dwellings in the state and in any of
18 its political subdivisions, subject to the requirements of local
19 planning and zoning ordinances and ordinances requiring permits
20 and inspections for foundations, electrical and mechanical
21 hookups or other safety or sanitary requirements. "

22 Section 6. Section 60-13-44 NMSA 1978 (being Laws 1967,
23 Chapter 199, Section 52, as amended) is amended to read:

24 "60-13-44. TRADE BUREAUS--STANDARDS--CONFLICTS.--

25 A. The electrical bureau shall recommend to the

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

9 B. The elevator bureau shall recommend to the
10 commission minimum standards for the general maintenance of
11 elevators and escalators and for their installation and repair.
12 The recommendations shall substantially embody the applicable
13 provisions of a nationally recognized elevator safety code that
14 is in general use in the United States or in a clearly defined
15 region of the United States. The standards shall include the
16 authority to permit or deny the use of any elevator or escalator
17 determined to be substantially out of compliance with the
18 elevator safety code.

19 [~~B-~~] C. The mechanical bureau shall recommend to the
20 commission minimum standards for the installation of all
21 fixtures, consumers' gas pipe, appliances and materials
22 installed in the course of a mechanical installation. The
23 recommendations shall be in substantial conformity with the
24 Uniform Mechanical Code published by the international
25 conference of building officials and the Uniform Plumbing Code

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1 published by the international association of mechanical and
2 plumbing officials.

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

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

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1 contained in a nationally recognized standard for making public
2 facilities accessible to the physically handicapped. All
3 orders, rules and regulations recommended by the general
4 construction bureau and adopted by the commission under the
5 provisions of this section shall be printed and distributed to
6 all licensed contractors, architects and engineers and to the
7 governor's committee on concerns of the handicapped. The
8 orders, rules and regulations shall take effect on a date fixed
9 by the commission, which shall not be less than thirty days
10 after their adoption by the commission, and shall have the force
11 of law.

12 [E-] F. The general construction bureau shall have
13 the right of review of all specifications of public buildings
14 and the responsibility to ensure compliance with the adopted
15 standards.

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

21 [G-] H. The trade bureaus within their respective
22 jurisdictions shall recommend to the commission standards for
23 the installation or use of electrical wiring, the installation
24 and use of elevators and escalators, the installation of all
25 fixtures, consumers' gas pipe, appliances and materials

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1 installed in the course of mechanical installation and the
2 construction, alteration or repair of all buildings intended for
3 use by the physically handicapped or persons requiring special
4 facilities to accommodate the aged. The recommendations shall
5 give due regard to physical, climatic and other conditions
6 peculiar to New Mexico.

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

25 [H-] J. Modular homes and premanufactured homes in

State of New Mexico
House of Representatives

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

February 25, 1997

Mr. Speaker:

Your BUSINESS AND INDUSTRY COMMITTEE, to whom has
been referred

HOUSE BILL 702

has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to the
APPROPRIATIONS AND FINANCE COMMITTEE.

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HBI C/HB 702

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Respectfully submitted,

Fred Luna, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Hobbs, Kissner, Olguin

Absent: Getty

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State of New Mexico House of Representatives

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

March 15, 1997

Mr. Speaker:

**Your APPROPRIATIONS AND FINANCE COMMITTEE, to
whom has been referred**

HOUSE BILL 702

**has had it under consideration and reports same with
recommendation that it DO PASS.**

Respectfully submitted,

Max Coll, Chairman

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FORTY- THIRD LEGISLATURE
FIRST SESSION, 1997

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 10 For 1 Against

Yes: 10

No: Bird

Excused: Buffett, Garcia, M. H., Marquardt, Picraux, Salazar,
Watchman

Absent: None

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