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AN ACT

RELATING TO MANUFACTURED HOUSING; ENLARGING POWERS AND DUTIES OF THE MANUFACTURED HOUSING DIVISION OF THE REGULATION AND LICENSING DEPARTMENT; PROVIDING PENALTIES; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 60-14-4 NMSA 1978 (being Laws 1978, Chapter 80, Section 1, as amended) is amended to read:

"60-14-4. POWERS AND DUTIES OF DIVISION.--The division shall:

A. prepare, administer and grade examinations for licensure under the classification sought by each applicant;

B. issue licenses and certificates of qualification in accordance with the provisions of the Manufactured Housing Act;

C. establish and collect fees authorized to be collected by the division pursuant to the Manufactured Housing Act;

D. subject to the approval of the committee, adopt rules and regulations relating to the construction, repair, modification, installation, tie-down, hookup and sale of all manufactured homes, which regulations shall be uniform throughout the state and shall be enforced by inspectors for the division to insure minimum standards of safety within the

1 state and any of its political subdivisions. Ordinances of
2 any political subdivision of New Mexico relating to gas,
3 including natural gas, liquefied petroleum gas or synthetic
4 natural gas; electricity; sanitary plumbing; and installation
5 or sale of manufactured homes shall not be inconsistent with
6 any rules, regulations, codes or standards adopted by the
7 division pursuant to the Manufactured Housing Act;

8 E. adopt a budget and submit it to the regulation
9 and licensing department for approval;

10 F. make an annual report to the superintendent of
11 regulation and licensing concerning the operations of the
12 division. The report shall contain the division's
13 recommendations for legislation that it deems necessary to
14 improve the licensing and the ethical and technical practices
15 of the manufactured housing industry and to protect the
16 public welfare;

17 G. subject to the approval of the committee, adopt
18 such rules, regulations, codes and standards as are necessary
19 to carry out the provisions of the Manufactured Housing Act;

20 H. prepare a uniform manufacturer's warranty and
21 require its adoption as a condition of licensure by all
22 manufacturers of manufactured homes doing business in New
23 Mexico;

24 I. subject to the approval of the committee, adopt
25 by regulation the mobile home construction and safety

1 standards contained in the National Mobile Home Construction
2 and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as
3 amended;

4 J. subject to the approval of the committee, adopt
5 by regulation the mobile home procedural and enforcement
6 regulations, 24 C.F.R. 3282, as amended, promulgated by the
7 department of housing and urban development pursuant to the
8 National Mobile Home Construction and Safety Standards Act of
9 1974, 42 U.S.C. 5401 et seq., as amended;

10 K. issue permits and provide for a single
11 inspection of every installation in New Mexico, regardless of
12 the location;

13 L. subject to the approval of the committee, adopt
14 regulations prescribing standards for the installation or use
15 of electrical wiring; the installation of all fixtures,
16 plumbing, consumer's gas pipe, including natural gas,
17 liquefied petroleum gas and synthetic natural gas, appliances
18 and materials installed in the course of mechanical
19 installation; and the construction, alteration, installation
20 and repair of all manufactured homes intended for use in
21 flood or mudslide areas designated pursuant to Section 3-18-7
22 NMSA 1978. The regulations shall give due regard to
23 standards prescribed by the federal insurance administration
24 pursuant to regulation 1910, Subsection 7(d), 79 Stat. 670,
25 Section 1361, 82 Stat. 587 and 82 Stat. 5757, all as amended,

1 and shall give due regard to physical, climatic and other
2 conditions peculiar to New Mexico;

3 M. conduct "inspector schools" so that each
4 inspector under the division's jurisdiction is capable of
5 giving a complete one-time inspection for the sufficiency of
6 unit installation, construction and mechanical and electrical
7 systems;

8 N. enter into cooperative agreements with federal
9 agencies relating to manufactured housing and accept and use
10 federal grants, matching funds or other financial assistance
11 to further the purposes of the Manufactured Housing Act. The
12 division may enter into agreements with municipalities and
13 counties to provide for the inspection of manufactured homes
14 by employees of municipalities and counties, to be performed
15 under the supervision and control of the division. The
16 division may allow all or a portion of the inspection fee
17 collected by a local public body to be retained by the local
18 public body. The portion of the fee retained shall be
19 determined by the division and shall be related to the
20 completeness of the inspection performed;

21 O. administer oaths through any member of the
22 division, the director or a hearing officer;

23 P. subject to the approval of the committee, adopt
24 rules and regulations for the conducting of hearings and the
25 presentation of views, consistent with the regulations

1 promulgated by the department of housing and urban
2 development, 24 C.F.R. 3282.151 through 3282.156, as amended;

3 Q. subject to the approval of the committee, adopt
4 by regulation a requirement that dealers, repairmen and
5 installers provide to consumers warranties on their product
6 and work and prescribe by regulation minimum requirements of
7 such warranties;

8 R. coordinate with and qualify inspectors for any
9 multiple inspection program provided by the construction
10 industries division of the regulation and licensing
11 department for inspection of manufactured homes;

12 S. subject to the approval of the committee, adopt
13 regulations, codes and standards for manufactured homes used
14 for nonresidential purposes; provided such manufactured homes
15 being used for nonresidential purposes on May 18, 1988 shall
16 not be required to meet Uniform Building Code standards,
17 except as to requirements for access to the handicapped, but
18 manufactured homes being used for nonresidential purposes
19 after May 18, 1988 shall be required to meet Uniform Building
20 Code standards. None of the provisions contained in this
21 subsection shall apply to retailers licensed by the motor
22 vehicle division of the taxation and revenue department; and

23 T. with the approval of the superintendent of
24 regulation and licensing, employ such personnel as the
25 director deems necessary for the exclusive purposes of

1 investigating violations of the Manufactured Housing Act,
2 enforcing Section 60-14-17 NMSA 1978 and instituting legal
3 action in the name of the division to enforce the provisions
4 of Section 60-14-19 NMSA 1978."

5 Section 2. Section 60-14-19 NMSA 1978 (being Laws 1983,
6 Chapter 295, Section 24) is amended to read:

7 "60-14-19. PENALTIES.--

8 A. Any person who knowingly and willfully violates
9 a provision of the Manufactured Housing Act or any rule,
10 regulation or administrative order of the committee or
11 division in a manner that threatens the health or safety of
12 any purchaser or consumer is guilty of a misdemeanor and on
13 conviction shall be fined not more than one thousand dollars
14 (\$1,000) or shall be confined in the county jail not longer
15 than one year or both.

16 B. In any action brought to enforce any provision
17 of the Manufactured Housing Act, the division, upon petition
18 to the court, may recover on behalf of the state a civil
19 penalty not to exceed one thousand dollars (\$1,000) for each
20 violation, except that the maximum civil penalty may not
21 exceed one million dollars (\$1,000,000) for any related
22 series of violations occurring within one year from the date
23 of the first violation.

24 C. Failure by a manufacturer or dealer to comply
25 with the warranty provisions of the Manufactured Housing Act

1 or any implied warranties or the violation of any provision
2 of the Manufactured Housing Act by any person is an unfair or
3 deceptive trade practice in addition to those practices
4 defined in the Unfair Practices Act and is actionable
5 pursuant to the Unfair Practices Act. As such, the venue
6 provisions and all remedies available in the Unfair Practices
7 Act apply to and are in addition to the remedies in the
8 Manufactured Housing Act.

9 D. The director may issue a license to an
10 applicant who at any time within one year prior to making an
11 application has acted as an unlicensed dealer, broker,
12 salesperson, repairman, manufacturer or installer in New
13 Mexico without a license as required by the division if:

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

16 (a) in an amount up to ten percent of
17 the contract price or the value of the unlicensed work in the
18 discretion of the committee; or

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

24 (2) the director is satisfied that no
25 incident of unlicensed work:

1 (a) caused monetary damage to any
2 person; or

3 (b) resulted in an unresolved consumer
4 complaint being filed against the applicant.

5 E. Any unlicensed person who has performed
6 unlicensed work may settle the claims against that unlicensed
7 person without becoming licensed if the administrative claims
8 arise from that person's first offense and that person pays
9 an administrative fee calculated pursuant to Paragraph (1) of
10 Subsection D of this section. In addition to the
11 administrative fee, an additional ten percent of the amount
12 of the administrative fee shall be assessed as a service fee.

13 F. If the total fee to be paid by the unlicensed
14 person pursuant to the provisions of Subsection D or E of this
15 section is twenty-five dollars (\$25.00) or less, the fee may
16 be waived by the director."

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