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HOUSE BILL 167

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

David L. Doyle

AN ACT

RELATING TO FIRE PREVENTION; ENACTING A NEW SECTION OF CHAPTER 5, ARTICLE 15 NMSA 1978 TO ADDRESS FIRE PREVENTION ORDINANCES FOR COMMERCIAL CONSTRUCTION; AMENDING SECTION 59A-52-15 NMSA 1978 (BEING LAWS 1984, CHAPTER 127, SECTION 961) TO ADDRESS CONFLICTS IN JURISDICTION OVER FIRE REQUIREMENTS IN BUILDING CODES; AMENDING SECTION 60-13-6 NMSA 1978 (BEING LAWS 1977, CHAPTER 245, SECTION 168, AS AMENDED) TO EXEMPT RESIDENTIAL FIRE PROTECTION SPRINKLERS FROM CODE ADOPTION.

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

SECTION 1. A new section of Chapter 5, Article 15 NMSA 1978 is enacted to read:

"[NEW MATERIAL] FIRE PREVENTION ORDINANCES.--

A. An ordinance enacted by a municipality or county to adopt a fire prevention code is limited to the use and

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

6 B. No municipality or county may enact an
7 ordinance, bylaw, order, fire or building code or rule that
8 requires that fire sprinklers be installed in noncommercial
9 dwellings described in Subsection A of this section.

10 C. The authority for administration and
11 interpretation of construction-related sections of the fire
12 prevention code that apply to construction projects requiring a
13 building permit is the responsibility of the chief building
14 official of the authority having jurisdiction."

15 SECTION 2. Section 59A-52-15 NMSA 1978 (being Laws 1984,
16 Chapter 127, Section 961) is amended to read:

17 "59A-52-15. FIRE PREVENTION--~~[PUBLIC OCCUPANCIES~~
18 ~~REGULATIONS]~~ RULES FOR USE OF EXISTING COMMERCIAL BUILDINGS.--

19 A. For prevention and control of fires, the state
20 fire board shall formulate, adopt and promulgate and amend or
21 revise ~~[regulations]~~ rules for fire prevention ~~[and safe~~
22 ~~conduct or use of public occupancies. For the purposes of this~~
23 ~~provision, "public occupancies" consist of places of assembly,~~
24 ~~educational occupancies, institutional occupancies, residential~~
25 ~~occupancies consisting of four (4) or more family units,~~

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1 ~~mercantile occupancies, office occupancies, industrial~~
2 ~~occupancies, storage occupancies and miscellaneous structures~~
3 ~~consisting of towers, underground structures and windowless~~
4 ~~buildings and all buildings owned or occupied by the state~~
5 ~~government or any political subdivision thereof or by municipal~~
6 ~~governments] in the use and maintenance of existing commercial~~
7 ~~buildings, not including detached one- and two-family dwellings~~
8 ~~and multiple single-family dwellings, such as townhouses that~~
9 ~~are not more than three stories above grade plane in height and~~
10 ~~that have a separate means of egress and their accessory~~
11 ~~structures, and [regulations] rules~~ concerning the sale,
12 servicing or use of fire safety, prevention, detection or
13 suppression equipment or materials. The ~~[regulations]~~ rules
14 shall be adopted after notice and public hearing. The notice
15 shall be entitled "notice of proposed ~~[rule-making]~~ rulemaking"
16 and it shall contain the date of the hearing and shall state
17 the subject of the hearing. A copy of the notice, along with a
18 copy of the proposed ~~[regulations]~~ rules, shall be filed with
19 the supreme court librarian at least twenty ~~[20]~~ days prior
20 to the hearing. In addition, the board shall make available
21 for inspection at its offices a copy of the proposed
22 ~~[regulations]~~ rules.

23 B. The rules ~~[and regulations]~~ shall follow
24 nationwide standards ~~[except in the area of life safety codes,~~
25 ~~which shall be compatible with the Uniform Building Code, as~~

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1 ~~revised from time to time, issued by the international~~
2 ~~conference of building officials].~~ The authority for
3 administration and interpretation of construction-related
4 sections of the fire prevention code that apply to construction
5 projects requiring a building permit is the responsibility of
6 the chief building official of the authority having
7 jurisdiction.

8 C. The rules [~~and regulations~~] shall allow
9 reasonable provision under which facilities in service prior to
10 the effective date of the rules [~~and regulations~~] and not in
11 strict conformity therewith may be continued in service.
12 [~~Nonconforming~~] Nonconforming facilities in service prior to
13 the adoption of [~~regulations which~~] rules that are found by the
14 state fire marshal to constitute a distinct hazard to life or
15 property shall not be exempt from [~~regulations~~] rules nor
16 permitted to continue in service."

17 SECTION 3. Section 60-13-6 NMSA 1978 (being Laws 1977,
18 Chapter 245, Section 168, as amended) is amended to read:

19 "60-13-6. CONSTRUCTION INDUSTRIES COMMISSION CREATED--
20 MEMBERSHIP--DUTIES.--

21 A. There is created within the division the
22 "construction industries commission". The commission shall be
23 composed of nine voting members who shall serve at the pleasure
24 of the governor. Members shall be appointed by the governor,
25 with the advice and consent of the senate, as follows:

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

3 (2) one member who is a licensed electrical
4 contractor;

5 (3) one member who is a licensed mechanical
6 contractor;

7 (4) one member who is a licensed and
8 practicing architect;

9 (5) one member who is a practicing general
10 contractor;

11 (6) one member who is a representative of the
12 liquefied petroleum gas industry;

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

16 (8) one member who is a representative of the
17 subcontracting industry of the state; and

18 (9) one member who is a representative of
19 organized labor.

20 Members shall be appointed to provide adequate
21 representation of all geographic areas of the state.

22 B. Each member of the commission shall receive per
23 diem and mileage as provided in the Per Diem and Mileage Act
24 and shall receive no other compensation, perquisite or
25 allowance.

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1 C. The commission shall annually elect a [~~chairman~~]
2 chair and vice [~~chairman~~] chair from its membership. The
3 director shall serve as the executive secretary of the
4 commission.

5 D. The commission shall meet bimonthly or at the
6 call of the [~~chairman~~] chair.

7 E. The commission shall establish policy for the
8 division. It shall advise on, review, coordinate and approve
9 or disapprove all rules, [~~regulations~~] standards, codes and
10 licensing requirements [~~which~~] that are subject to the approval
11 of the commission under the provisions of the Construction
12 Industries Licensing Act or the LPG and CNG Act so as to
13 [~~insure~~] ensure that uniform codes and standards are
14 promulgated and conflicting provisions are avoided. However,
15 the commission shall not enact a bylaw, order, building code,
16 policy or rule requiring the installation of a residential fire
17 protection sprinkler system in detached one- and two-family
18 dwelling and multiple single-family dwellings, such as
19 townhouses that are not more than three stories above grade
20 plane in height and that have a separate means of egress and
21 their accessory structures. 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~~]
3 bidding and contracting as provided in Subsection B of Section
4 60-13-12 NMSA 1978. [~~Any~~] A licensee, subsequent to the
5 issuance of a license, may make application for additional
6 classification and be licensed in more than one classification
7 if [~~he~~] the licensee meets the prescribed qualification for the
8 additional classification."

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