SENATE BILL 201

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

INTRODUCED BY

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

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

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

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

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

A. For prevention and control of fires, the state
fire board shall formulate, adopt and promulgate and amend or
revise [regulations] rules for fire prevention [and safe
conduct or use of public occupancies. For the purposes of this
provision, "public occupancies" consist of places of assembly,
educational occupancies, institutional occupancies, residential
occupancies consisting of four (4) or more family units,
mercantile occupancies, office occupancies, industrial occupancies, storage occupancies and miscellaneous structures consisting of towers, underground structures and windowless buildings and all buildings owned or occupied by the state government or any political subdivision thereof or by municipal governments in the use and maintenance of existing commercial buildings, not including detached one- and two-family dwellings and multiple single-family dwellings, such as townhouses that are not more than three stories above grade plane in height and that have a separate means of egress and their accessory structures, and [regulations] rules concerning the sale, servicing or use of fire safety, prevention, detection or suppression equipment or materials. The [regulations] rules shall be adopted after notice and public hearing. The notice shall be entitled "notice of proposed [rule making] rulemaking" and it shall contain the date of the hearing and shall state the subject of the hearing. A copy of the notice, along with a copy of the proposed [regulations] rules, shall be filed with the supreme court librarian at least twenty [(20)] days prior to the hearing. In addition, the board shall make available for inspection at its offices a copy of the proposed [regulations] rules.

B. The rules [and regulations] shall follow nationwide standards [except in the area of life safety codes, which shall be compatible with the Uniform Building Code, as .183563.3
revised from time to time, issued by the international
conference of building officials]. The authority for
administration and interpretation of construction-related
sections of the fire prevention code that apply to construction
projects requiring a building permit is the responsibility of
the chief building official of the authority having
jurisdiction.

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

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

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

A. There is created within the division the
"construction industries commission". The commission shall be
composed of nine voting members who shall serve at the pleasure
of the governor. Members shall be appointed by the governor,
with the advice and consent of the senate, as follows:
(1) one member who is a representative of the residential construction industry of this state;

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

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

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

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

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

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

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

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

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

B. Each member of the commission shall receive per diem and mileage as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.
C. The commission shall annually elect a [chairman] chair and vice [chairman] chair from its membership. The director shall serve as the executive secretary of the commission.

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

E. The commission shall establish policy for the division. It shall advise on, review, coordinate and approve or disapprove all rules, [regulations] standards, codes and licensing requirements [which] that are subject to the approval of the commission under the provisions of the Construction Industries Licensing Act or the LPG and CNG Act so as to insure that uniform codes and standards are promulgated and conflicting provisions are avoided. However, the commission shall not enact a bylaw, order, building code, policy or rule requiring the installation of a residential fire protection sprinkler system in detached one- and two-family dwellings and multiple single-family dwellings, such as townhouses that are not more than three stories above grade plane in height and that have a separate means of egress and their accessory structures. The commission shall:

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

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