

HOUSE BUSINESS AND EMPLOYMENT COMMITTEE SUBSTITUTE FOR
HOUSE BILL 367

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

AN ACT

RELATING TO LICENSURE; AMENDING SECTIONS OF THE CONSTRUCTION
INDUSTRIES LICENSING ACT; PROVIDING FOR AN EXCEPTION TO
PENALTIES FOR THE DIRECTOR OF THE CONSTRUCTION INDUSTRIES
DIVISION OF THE REGULATION AND LICENSING DEPARTMENT IF A DENIAL
OF A LICENSE IS OVERTURNED BY THE CONSTRUCTION INDUSTRIES
COMMISSION; PROVIDING FOR REVOCATION OF LICENSURE; REQUIRING
COST INFORMATION FROM TRADE BUREAUS.

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

SECTION 1. Section 60-13-15 NMSA 1978 (being Laws 1977,
Chapter 245, Section 177, as amended) is amended to read:

"60-13-15. LICENSE ISSUANCE--COMMISSION REVIEW.--

A. The commission shall review at its regular
meetings all licenses issued by the division. The commission
shall report to the superintendent of regulation and licensing

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underscored material = new
[bracketed material] = delete

1 and the attorney general any license issued to an applicant who
2 fails to meet the requirements established by law and
3 commission regulations for license issuance.

4 B. The signing of a license by the director for
5 issuance by the division to an applicant who fails to meet the
6 requirements established by law or [~~committee~~] commission
7 regulations for issuance of licenses is a misdemeanor, and the
8 director, if convicted by a court of law, shall be relieved of
9 [~~his~~] the director's duties and shall be subject to civil
10 damages as provided in Section 30-23-7 NMSA 1978. Failure by
11 the [~~committee~~] commission or [~~any~~] a member of the [~~committee~~]
12 commission to report the illegal issuance of a license is a
13 petty misdemeanor and upon conviction shall result in
14 termination of the appointment of the [~~committee~~] commission
15 member so convicted.

16 C. If the commission hears an appeal of a denial of
17 a license to an applicant by the director and subsequently
18 overturns the director's denial, the director shall not be
19 subject to the penalties herein."

20 SECTION 2. Section 60-13-29 NMSA 1978 (being Laws 1967,
21 Chapter 199, Section 32, as amended) is amended to read:

22 "60-13-29. [~~APPLICATION FOLLOWING~~] REVOKED LICENSE [~~OR~~
23 ~~CERTIFICATE~~].--[~~A.~~] After revocation of any license or
24 certificate issued pursuant to the Construction Industries
25 Licensing Act, no person shall be eligible to apply for a new

1 license or certificate [~~until a period of one year after the~~
 2 ~~date of the original order of revocation by the commission has~~
 3 ~~expired.~~

4 ~~B. Following the revocation of a contractor's~~
 5 ~~license or a qualifying party's certificate pursuant to the~~
 6 ~~Construction Industries Licensing Act, no license or~~
 7 ~~certificate may be issued to that contractor or qualifying~~
 8 ~~party by the division if the director finds that the contractor~~
 9 ~~or qualifying party has, during the period of revocation,~~
 10 ~~engaged in activity that constitutes a violation of any~~
 11 ~~provision of the Construction Industries Licensing Act] during~~
 12 the period of revocation and the revocation shall not be less
 13 than one year or exceed ten years."

14 SECTION 3. Section 60-13-44 NMSA 1978 (being Laws 1967,
 15 Chapter 199, Section 52, as amended) is amended to read:

16 "60-13-44. TRADE BUREAUS--STANDARDS--CONFLICTS.--

17 A. The electrical bureau shall recommend to the
 18 commission minimum standards for the installation or use of
 19 electrical wiring. The recommendations shall substantially
 20 embody the applicable provisions of an electrical code for
 21 safety to life and property promulgated by a nationally
 22 recognized association and developed through an open, balanced
 23 consensus process.

24 B. The mechanical bureau shall recommend to the
 25 commission minimum standards for the installation of all

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1 fixtures, consumers' gas pipe, appliances and materials
2 installed in the course of a mechanical installation. The
3 recommendations shall be in substantial conformity with codes
4 and standards that are developed through an open, balanced
5 consensus process. Manufacturers may choose the independent
6 certification organization they wish to certify their products
7 if the certification organization is accredited by the American
8 national standards institute or other accreditation
9 organization selected by the commission.

10 C. The general construction bureau shall recommend
11 to the commission minimum standards for the construction,
12 alteration or repair of buildings, except for those activities
13 within the jurisdiction of the electrical bureau or the
14 mechanical bureau. The recommendations shall substantially
15 embody the applicable provisions of a nationally recognized
16 building code that is developed through an open, balanced
17 consensus process and shall give due regard to physical,
18 climatic and other conditions peculiar to New Mexico. The
19 standards shall include the authority to permit or deny
20 occupancy of existing and new buildings or structures and
21 authority to accept or deny the use of materials manufactured
22 within or without the state. The general construction bureau
23 may set minimum fees or charges for conducting tests to verify
24 claims or specifications of manufacturers.

25 D. The general construction bureau shall recommend

1 to the commission additional specifications for any public
2 building constructed in the state through expenditure of state,
3 county or municipal funds, bonds and other revenues, which
4 specifications shall embody standards making the building
5 accessible to persons who have a physical disability, and the
6 specifications shall conform substantially with those contained
7 in a nationally recognized standard for making public
8 facilities accessible to persons with a physical disability
9 that is developed through an open, balanced consensus process.
10 All orders and rules recommended by the general construction
11 bureau and adopted by the commission under the provisions of
12 this section shall be printed and distributed to all licensed
13 contractors, architects and engineers and to the governor's
14 commission on disability. The orders and rules shall take
15 effect on a date fixed by the commission, which shall not be
16 less than thirty days after their adoption by the commission,
17 and shall have the force of law.

18 E. The general construction bureau shall have the
19 right of review of all specifications of public buildings and
20 the responsibility to ensure compliance with the adopted
21 standards.

22 F. All political subdivisions of the state are
23 subject to the provisions of codes adopted and approved under
24 the Construction Industries Licensing Act. Such codes
25 constitute a minimum requirement for the codes of political

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1 subdivisions.

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

13 H. The trade bureaus within their respective
14 jurisdictions shall recommend to the commission standards for
15 the construction, alteration, repair, use or occupancy of
16 manufactured commercial units, modular homes and
17 premanufactured homes. 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 with the
24 codes and standards adopted by the commission under the
25 provisions of this subsection, the provisions of the applicable

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1 New Mexico building codes adopted pursuant to the Construction
2 Industries Licensing Act and the LPG and CNG Act in effect at
3 the applicable time shall exclusively apply and control, except
4 for codes and standards for mobile housing units.

5 I. Modular homes and premanufactured homes in
6 existence at the time of the effective date of the Construction
7 Industries Licensing Act shall have their use or occupancy
8 continued if such use or occupancy was legal on the effective
9 date of that act; provided that such continued use or occupancy
10 is not dangerous to life. Any change in the use or occupancy
11 or any major alteration or repair of a modular home or
12 premanufactured home shall comply with all codes and standards
13 adopted under the Construction Industries Licensing Act.

14 J. The commission shall review all recommendations
15 made under the provisions of this section and shall by rule
16 adopt standards and codes that substantially comply with the
17 requirements of this section that apply to the recommendations
18 of the trade bureaus.

19 K. Notwithstanding any of the provisions set forth
20 in this section, no new code, standard or specification shall
21 be recommended to the commission without the inclusion of cost-
22 benefit information provided by the individual trade bureau
23 making the recommendation. This information shall reflect the
24 cost of construction. Estimates shall also be made of fiscal
25 impacts of implementing the change for state and local

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1 governments. The information shall be submitted with any
2 recommended change to the commission prior to the commission
3 approving the proposed change for public hearing."

4 SECTION 4. Section 60-13-49 NMSA 1978 (being Laws 1967,
5 Chapter 199, Section 57, as amended) is amended to read:

6 "60-13-49. PROOF OF RESPONSIBILITY.--

7 A. No applicant for a contractor's license or for
8 renewal of a contractor's license shall be issued a license
9 until the director determines that the applicant furnishes
10 proof of responsibility pursuant to Subsection B of this
11 section.

12 B. Proof of responsibility shall be a bond of ten
13 thousand dollars (\$10,000) acceptable to the director and
14 underwritten by a corporate surety authorized to transact
15 business in New Mexico. Such bond shall meet the following
16 conditions:

17 (1) payments from a bond required pursuant to
18 this section shall only be used to cure code violations caused
19 by a licensee, certified by the division and not corrected by
20 the licensee. Claims by the division against the bond shall be
21 made within two years following final inspection by the
22 governmental entity having jurisdiction over code enforcement
23 or within two years of issuance of a certificate of occupancy
24 for the construction project, whichever is earlier;

25 (2) the total aggregate liability of the

1 surety for all claims shall be limited to the face amount of
2 the bond;

3 (3) the bond carrier shall provide to the
4 division and to the licensee thirty days' prior written notice
5 of intent to cancel a bond required pursuant to this section.
6 The surety for such a bond shall remain liable under the
7 provisions of the bond for all obligations of the principal
8 pertaining to bond terms that occur before the bond is
9 canceled, expires or otherwise becomes ineffective;

10 (4) failure to maintain the bond for the
11 period required by law is cause for revocation of the license;
12 and

13 (5) if the bond is canceled, expires or
14 otherwise becomes ineffective during the period of a license,
15 the division shall notify the licensee that a new bond is
16 required. If the licensee has not provided proof of a new bond
17 before the fortieth day after the date on which the bond was
18 canceled, expired or otherwise became ineffective, the license
19 shall be subject to revocation for failure of proof of
20 responsibility."