

1 HOUSE BILL 256

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO OCCUPATIONAL LICENSING; AMENDING THE DEFINITION OF
12 "CONTRACTOR" IN THE CONSTRUCTION INDUSTRIES LICENSING ACT TO
13 EXPAND THE CONSTRUCTION-RELATED ACTIVITIES THAT A PERSON MAY
14 PERFORM ON FARMS AND RANCHES WITHOUT A CONTRACTOR LICENSE;
15 MAKING TECHNICAL CHANGES.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 60-13-3 NMSA 1978 (being Laws 1978,
19 Chapter 66, Section 1, as amended) is amended to read:

20 "60-13-3. DEFINITION--CONTRACTOR.--As used in the
21 Construction Industries Licensing Act, "contractor":

22 A. means [~~any~~] a person who undertakes, offers to
23 undertake by bid or other means or purports to have the
24 capacity to undertake, by [~~himself~~] the person alone or through
25 others, contracting. Contracting includes constructing,

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1 altering, repairing, installing, [øæ] demolishing, leveling or
2 clearing land or excavating earth for any:

3 (1) road, highway, bridge, parking area or
4 related project;

5 (2) building, stadium or other structure;

6 (3) airport, subway or similar facility;

7 (4) park, trail, bridle path, athletic field,
8 golf course or similar facility;

9 (5) dam, reservoir, canal, ditch or similar
10 facility;

11 (6) sewerage or water treatment facility,
12 power generating plant, pump station, natural gas compressing
13 station or similar facility;

14 (7) sewerage, water, gas or other pipeline;

15 (8) transmission line;

16 (9) radio, television or other tower;

17 (10) water, oil or other storage tank;

18 (11) shaft, tunnel or mining appurtenance;

19 [~~(12)~~] ~~leveling or clearing land;~~

20 [~~(13)~~] ~~excavating earth;~~

21 [~~(14)~~] (12) air conditioning, conduit, heating
22 or other similar mechanical works;

23 [~~(15)~~] (13) electrical wiring, plumbing or
24 plumbing fixture, consumers' gas piping, gas appliances or
25 water conditioners; or

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1 [~~(16)~~] (14) similar work, structures or
2 installations [~~which~~] that are covered by applicable codes
3 adopted under the provisions of the Construction Industries
4 Licensing Act;

5 B. includes subcontractor and specialty contractor;

6 C. includes a construction manager who coordinates
7 and manages the building process; who is a member of the
8 construction team with the owner, architect, engineer and other
9 consultants required for the building project; and who utilizes
10 [~~his~~] the construction manager's skill and knowledge of general
11 contracting to develop schedules, prepare project construction
12 estimates, study labor conditions and advise concerning
13 construction; and

14 D. does not include:

15 (1) [~~any~~] a person who merely furnishes
16 materials or supplies at the site without fabricating them
17 into, or consuming them in the performance of, the work of a
18 contractor;

19 (2) [~~any~~] a person who drills, completes,
20 tests, abandons or operates [~~any~~] a petroleum, gas or water
21 well; [~~or~~] services equipment and structures used in the
22 production and handling of [~~any~~] a product incident to the
23 production of [~~any~~] petroleum, gas or water wells, excluding
24 [~~any~~] a person performing duties normally performed by
25 electrical, mechanical or general contractors; or [~~who~~]

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1 performs geophysical or similar exploration for oil, gas or
2 water;

3 (3) a public utility or rural electric
4 cooperative that constructs, reconstructs, operates or
5 maintains its plant or renders authorized service by the
6 installation, alteration or repair of facilities, up to and
7 including the meters, which facilities are an integral part of
8 the operational system of the public utility or rural electric
9 cooperative; provided that the construction of a building by a
10 public utility or rural electric cooperative or the
11 installation or repair of ~~any~~ a consumer gas or electrical
12 appliance not an integral part of the operational system makes
13 a public utility or rural electric cooperative a contractor for
14 that purpose;

15 (4) a utility department of ~~any~~ a
16 municipality or local public body rendering authorized service
17 by the installation, alteration or repair of facilities, up to
18 and including the meters, which facilities are an integral part
19 of the operational system of the utility department of the
20 municipality;

21 (5) ~~any~~ a railroad company;

22 (6) a telephone or telegraph company or rural
23 electric cooperative that installs, alters or repairs
24 electrical equipment and devices for the operation of signals
25 or the transmission of intelligence where that work is an

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1 integral part of the operation of a communication system owned
2 and operated by a telephone or telegraph company or rural
3 electric cooperative in rendering authorized service;

4 (7) a pipeline company that installs, alters
5 or repairs electrical equipment and devices for the operation
6 of signals or the transmission of intelligence where that
7 service is an integral part of the operation of the
8 communication system of that pipeline company and is not for
9 hire or for the use of the general public, or [~~any~~] a pipeline
10 company [~~which~~] that installs, alters or repairs plumbing
11 fixtures or gas piping where the work is an integral part of
12 installing and operating the system owned or operated by the
13 pipeline company in rendering its authorized service;

14 (8) [~~any~~] a mining company, gas company or oil
15 company that installs, alters or repairs its facilities,
16 including plumbing fixtures or gas piping, where the work is an
17 integral part of the installing or operating of a system owned
18 or operated by the mining company, gas company or oil company;
19 provided the construction of a building by a mining company, a
20 gas company or an oil company is required to be done in
21 conformity with all other provisions of the Construction
22 Industries Licensing Act and with orders, rules, [~~regulations~~]
23 standards and codes adopted pursuant to that act;

24 (9) a radio or television broadcaster who
25 installs, alters or repairs electrical equipment used for radio

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1 or television broadcasting;

2 (10) an individual who, [~~by himself~~] alone or
3 with the aid of others who are paid wages and who receive no
4 other form of compensation, builds or makes installations,
5 alterations or repairs in or to a single-family dwelling owned
6 and occupied or to be occupied by [~~him~~] the individual;
7 provided that the installation, building, alteration or repair
8 is required to be done in conformity with all other provisions
9 of the Construction Industries Licensing Act and with the
10 orders, rules, [~~regulations~~] standards and codes adopted
11 pursuant to that act;

12 (11) a person who acts on [~~his~~] the person's
13 own account to build or improve a single-family residence for
14 [~~his~~] the person's personal use, including the building or
15 improvement of a [~~free-standing~~] freestanding storage building
16 located on that residential property; provided that the
17 construction or improvement is required to be done in
18 conformity with all other provisions of the Construction
19 Industries Licensing Act and with the orders, rules,
20 [~~regulations~~] standards and codes adopted pursuant to that act;
21 and provided further that [~~he~~] the person does not engage in
22 commercial construction;

23 (12) [~~a person who, by himself or with the aid~~
24 ~~of others who are paid wages and receive no other form of~~
25 ~~compensation, builds or makes installations, repairs or~~

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1 ~~alterations in or to a building or other improvement on a farm~~
2 ~~or ranch owned, occupied or operated by him, or makes~~
3 ~~installations of electrical wiring that are not to be connected~~
4 ~~to electrical energy supplied from a power source outside the~~
5 ~~premises of the farm or ranch owned, occupied or operated by~~
6 ~~him; provided that the state codes and any local codes adopted~~
7 ~~pursuant to Subsection F of Section 60-13-44 NMSA 1978 shall~~
8 ~~not require any permits or inspections for such construction on~~
9 ~~a farm or ranch except for electrical wiring to be connected to~~
10 ~~a power source outside the premises]~~ a person who, on a farm or
11 ranch owned, occupied or operated by the person, alone or with
12 the aid of others who are paid wages and receive no other form
13 of compensation:

14 (a) constructs, builds or makes
15 installations, repairs or alterations in or to a building or
16 makes installations of electrical wiring that are not to be
17 connected to electrical energy supplied from a power source
18 outside the premises of the farm or ranch; provided that the
19 state codes and local codes adopted pursuant to Subsection F of
20 Section 60-13-44 NMSA 1978 shall not require permits or
21 inspections for such construction on a farm or ranch except for
22 electrical wiring to be connected to a power source outside the
23 premises;

24 (b) prepares land or moves earth only
25 for purposes of agricultural production; or

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1 (c) constructs, alters or repairs: 1) a
2 private farm or ranch road or parking area that is not paved,
3 that is not intended for use by the general public and for
4 which there is no public access; 2) earth work for a stock
5 pond, catch tank or similar facility; 3) a water tank that
6 supplies water for livestock; 4) irrigation systems that
7 include canals and ditches constructed and maintained on
8 private property, excluding any electrical work for pivot
9 irrigation systems; or 5) pipeline installation and maintenance
10 that moves water for livestock use from a privately owned well
11 or pipeline not connected to a public water supply and only if
12 connected downstream of an approved back flow prevention device
13 when connected to a potable water source;

14 (13) a person who, on a farm or ranch and only
15 for agricultural purposes:

16 (a) prepares land or moves earth in
17 connection with agricultural production; or

18 (b) constructs, alters or repairs: 1) a
19 private farm or ranch road or parking area that is not paved,
20 that is not intended for use by the general public and for
21 which there is no public access; 2) earth work for a stock
22 pond, catch tank or similar facility; 3) a water tank that
23 supplies water for livestock; 4) irrigation systems that
24 include canals and ditches constructed and maintained on
25 private property, excluding any electrical work for pivot

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1 irrigation systems; or 5) pipeline installation and maintenance
2 that moves water for livestock use from a privately owned well
3 or pipeline, not connected to a public water supply and only if
4 connected downstream of an approved back flow prevention device
5 when connected to a potable water source;

6 [~~(13)~~] (14) an individual who works only for
7 wages;

8 [~~(14)~~] (15) an individual who works on one
9 undertaking or project at a time that, in the aggregate or
10 singly, does not exceed seven thousand two hundred dollars
11 (\$7,200) compensation a year, the work being casual, minor or
12 inconsequential, such as handyman repairs; provided that this
13 exemption shall not apply to any undertaking or project
14 pertaining to the installation, connection or repair of
15 electrical wiring, plumbing or gas fitting as defined in
16 Section 60-13-32 NMSA 1978 and provided:

17 (a) the work is not part of a larger or
18 major operation undertaken by the same individual or different
19 contractor;

20 (b) the individual does not advertise or
21 maintain a sign, card or other device [~~which~~] that would
22 indicate to the public that [~~he~~] the individual is qualified to
23 engage in the business of contracting; and

24 (c) the individual files annually with
25 the division, on a form prescribed by the division, a

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1 declaration substantially to the effect that [~~he~~] the
2 individual is not a contractor within the meaning of the
3 Construction Industries Licensing Act, that the work [~~he~~] the
4 individual performs is casual, minor or inconsequential and
5 will not include more than one undertaking or project at one
6 time and that the total amount of such contracts, in the
7 aggregate or singly, will not exceed seven thousand two hundred
8 dollars (\$7,200) compensation a year;

9 [~~(15)~~] (16) [~~any~~] a person, firm or
10 corporation that installs fuel containers, appliances, furnaces
11 and other appurtenant apparatus as an incident to its primary
12 business of distributing liquefied petroleum fuel;

13 [~~(16)~~] (17) a cable television or community
14 antenna television company that constructs, installs, alters or
15 repairs facilities, equipment, cables or lines for the
16 provision of television service or the carriage and
17 transmission of television or radio broadcast signals;

18 [~~(17)~~] (18) [~~any~~] a weatherization project not
19 exceeding two thousand dollars (\$2,000) that has been approved
20 and is administered by a federal or state agency; or

21 [~~(18)~~] (19) a person who performs work
22 consisting of short-term depreciable improvements to commercial
23 property to provide needed repairs and maintenance for items
24 not covered by building codes adopted by the construction
25 [~~industry~~] industries commission if the total amount paid the

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1 person for the work on a single undertaking, including
2 materials, services and wages of those who work for ~~him~~ the
3 person, does not exceed the sum of five thousand dollars
4 (\$5,000)."

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