

1 AN ACT

2 RELATING TO FOREST CONSERVATION; ENACTING THE WILDFIRE
3 PREPARED ACT; AMENDING AND RECOMPILING A SECTION OF THE
4 NMSA 1978 TO BE A SECTION OF THE WILDFIRE PREPARED ACT;
5 ADDING MEMBERS AND DUTIES TO THE FIRE PLANNING TASK FORCE;
6 CREATING THE WILDFIRE PREPARED PROGRAM; CREATING THE WILDFIRE
7 PREPARED FUND; RECONCILING CONFLICTING ENACTMENTS OF THE
8 SAME SECTION OF LAW BY REPEALING LAWS 2003, CHAPTER 115,
9 SECTION 1; DECLARING AN EMERGENCY.

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

12 SECTION 1. SHORT TITLE.--This act may be cited as the
13 "Wildfire Prepared Act".

14 SECTION 2. DEFINITIONS.--As used in the Wildfire
15 Prepared Act:

16 A. "assessment" means an assessment of a structure
17 or property for compliance with wildfire preparedness
18 standards;

19 B. "buffer" means an area treated to reduce
20 wildfire fuel in order to act as a barrier between properties
21 to limit and halt the spread of wildfire and provide a safe
22 zone for firefighters to engage with wildfires;

23 C. "certification" means a certificate provided
24 pursuant to the wildfire prepared program indicating that a
25 structure or property meets wildfire preparedness standards;

1 D. "department" means the energy, minerals and
2 natural resources department;

3 E. "division" means the forestry division of the
4 energy, minerals and natural resources department;

5 F. "eligible property owner" means a New Mexico
6 resident who owns a residence in New Mexico and meets all
7 requirements developed by the task force to be eligible for a
8 wildfire prepared program grant;

9 G. "high-risk area" means an area identified by
10 the task force as having a high probability of wildfire that
11 is likely to spread to structures or property;

12 H. "noncombustible" means made from material of
13 which no part will ignite and burn when subjected to fire;

14 I. "property" means the land adjacent to a
15 structure;

16 J. "qualified entity" means a political
17 subdivision of the state or an entity contracted with for the
18 hardening of structures to be wildfire prepared;

19 K. "residence" means a dwelling structure designed
20 for long-term habitation and its property;

21 L. "structure" means a constructed object,
22 including residences or commercial buildings and outbuildings
23 such as barns and sheds;

24 M. "task force" means the fire planning task
25 force;

1 N. "wildfire" means a fire originating from an
2 unplanned ignition, such as lightning, volcanoes, an
3 unauthorized or accidental human-caused fire or a prescribed
4 fire that is declared a wildfire;

5 O. "wildfire prepared" means being resistant to
6 wildfire through actions to harden and make noncombustible
7 structures and property to reduce the risk of structure
8 ignition and building-to-building fire spread, including the
9 use of noncombustible and ignition-proof building materials
10 and landscaping property to reduce hazardous fuels; and

11 P. "wildfire preparedness standards" means the
12 standards developed by the task force for structures and
13 property to be wildfire prepared.

14 SECTION 3. Section 68-2-34 NMSA 1978 (being Laws 2003,
15 Chapter 115, Section 1 and Laws 2003, Chapter 303, Section 1)
16 is recompiled as a section of the Wildfire Prepared Act and
17 is amended to read:

18 "FIRE PLANNING TASK FORCE--DUTIES--WILDFIRE PREPARED
19 PROGRAM--STANDARDS--REQUIREMENTS.--

20 A. The "fire planning task force" is created. The
21 task force shall consist of:

- 22 (1) the state fire marshal;
23 (2) the director of the local government
24 division of the department of finance and administration;
25 (3) the commissioner of public lands;

1 (4) the state director of the federal bureau
2 of land management on behalf of the United States department
3 of the interior;

4 (5) the regional forester of the
5 United States forest service;

6 (6) a member of a local fire department,
7 appointed by the governor;

8 (7) a member of a volunteer fire department,
9 appointed by the state forester;

10 (8) the director of the New Mexico
11 association of counties;

12 (9) the director of the New Mexico
13 municipal league;

14 (10) the director of the construction
15 industries division of the regulation and licensing
16 department;

17 (11) the state forester;

18 (12) the secretary of Indian affairs;

19 (13) the superintendent of insurance;

20 (14) the secretary of homeland security and
21 emergency management;

22 (15) a member with expertise in wildfire
23 science and structures, appointed by the state forester; and

24 (16) a representative of a state-based
25 property insurance carrier trade association, appointed by

1 the state forester, after consulting with the office of
2 superintendent of insurance.

3 B. The chair of the task force shall be elected by
4 the task force. The task force shall meet at the call of the
5 chair.

6 C. The public members of the task force shall
7 receive per diem and mileage pursuant to the Per Diem and
8 Mileage Act.

9 D. The division, with assistance from the
10 department of finance and administration, shall provide staff
11 for the task force.

12 E. The task force shall:

13 (1) identify and map high-risk areas within
14 the state;

15 (2) develop standards for building codes,
16 defensible space requirements and ordinances that will reduce
17 the threat of wildfires. In developing the standards, the
18 task force shall:

19 (a) recognize the distinction between
20 altering existing situations and establishing standards for
21 new construction;

22 (b) consider other fire suppression
23 measures, including thinning overgrown forests, conducting
24 controlled burns, clearing spaces around homes and other
25 structures, using wildfire-resistant, noncombustible and

1 ignition-resistant building materials and national standards
2 for defensible space requirements, including making the
3 five-foot zone closest to and surrounding structures
4 noncombustible;

5 (c) consider the impact of fire
6 mitigation measures on wildlife; and

7 (d) solicit comments from affected
8 landowners, land users and local governments;

9 (3) work with communities in the affected
10 areas in adopting and implementing the building codes and
11 ordinances;

12 (4) develop wildfire preparedness standards
13 for certification that are consistent with and no less
14 stringent than the most recent standards developed by a
15 nationally recognized wildfire prepared standard-setting
16 organization, such as the insurance institute for business
17 and home safety;

18 (5) develop by June 30 of each year
19 guidelines and requirements for eligibility for grants
20 consistent with the provisions of and provided through the
21 wildfire prepared program pursuant to Section 4 of the
22 Wildfire Prepared Act; and

23 (6) report its progress and any
24 recommendations for legislation to the governor and the
25 legislature by December 15 of each year."

1 SECTION 4. WILDFIRE PREPARED PROGRAM--NO RIGHT OF
2 ACTION, GUARANTEE OF BENEFITS OR ENFORCEABLE INTEREST.--

3 A. The "wildfire prepared program" is created
4 in the department to make structures and properties in
5 New Mexico wildfire prepared. The department shall provide
6 technical assistance and training, conduct assessments,
7 provide certification and award grants to:

8 (1) political subdivisions of the state to:

9 (a) make changes to structures and
10 properties to make them wildfire prepared;

11 (b) conduct hazardous fuels reduction
12 to provide buffers for structures and properties in high-risk
13 areas; and

14 (c) establish community-based programs
15 to conduct assessments and provide certification; or

16 (2) qualified entities to assist eligible
17 property owners with making the necessary changes to their
18 residences for the sole purpose of making the residences
19 wildfire prepared.

20 B. At least fifty percent of the grant money
21 awarded pursuant to this section shall be made to qualified
22 entities for the purpose of assisting eligible property
23 owners with making the necessary changes to their residences
24 to make them wildfire prepared.

25 C. Grants awarded pursuant to the wildfire

1 prepared program shall be consistent with the guidelines and
2 requirements developed by the task force.

3 D. Nothing in the Wildfire Prepared Act shall
4 create any additional right of action under the law, and the
5 provisions of that act do not guarantee any benefits and
6 shall not be construed to create an interest in property that
7 is enforceable under state law or that does not otherwise
8 exist.

9 SECTION 5. WILDFIRE PREPARED FUND.--

10 A. The "wildfire prepared fund" is created as a
11 nonreverting fund in the state treasury to provide funding
12 for the wildfire prepared program. The fund consists of
13 distributions, appropriations, gifts, grants, donations and
14 income from investment of the fund.

15 B. The department shall administer the fund.
16 Money in the fund is appropriated to the department to
17 administer, staff and carry out the provisions of the
18 Wildfire Prepared Act.

19 C. Expenditures from the fund shall be by warrant
20 of the secretary of finance and administration pursuant to
21 vouchers signed by the secretary of energy, minerals and
22 natural resources or the secretary's authorized
23 representative.

24 SECTION 6. REPEAL.--Laws 2003, Chapter 115, Section 1
25 is repealed.

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SECTION 7. EMERGENCY.--It is necessary for the public
peace, health and safety that this act take effect
immediately. _____