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SENATE BILL 291

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Raymond L. Kysar

AN ACT

RELATING TO CONSTRUCTION CODES; PROHIBITING POLITICAL  
SUBDIVISIONS FROM ENACTING CONSTRUCTION CODES THAT ARE MORE  
STRINGENT THAN THOSE ENACTED PURSUANT TO THE CONSTRUCTION  
INDUSTRIES LICENSING ACT.

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

Section 1. Section 3-17-6 NMSA 1978 (being Laws 1965,  
Chapter 300, Section 14-16-5) is amended to read:

"3-17-6. CODES ADOPTED AND ENFORCED BY REFERENCE--  
AVAILABILITY. --

A. A municipality may adopt by ordinance the  
conditions, provisions, limitations and terms of [ an ]:

- (1) an administrative code;
- (2) an air pollution code;
- (3) a building code;

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- 1 (4) an elevator code;  
2 (5) an electrical code;  
3 (6) a fire prevention code;  
4 (7) a health code;  
5 (8) a housing code;  
6 (9) a plumbing code;  
7 (10) a traffic code; or  
8 (11) any other code not in conflict with the  
9 laws of New Mexico or valid regulations issued by any board or  
10 agency of New Mexico authorized to issue regulations.

11 [~~Any~~] A code so adopted shall provide for minimum  
12 requirements at least equal to the state requirements on the  
13 same subject; except that, for state codes adopted pursuant to  
14 the Construction Industries Licensing Act, the code adopted by  
15 the municipality shall not contain requirements that are more  
16 stringent than those adopted by the state.

17 B. An ordinance adopting any such code need only  
18 refer to the proper title and date of the code [~~only~~], without  
19 setting forth the code's conditions, provisions, limitations  
20 and terms, and may include any exception or deletion to the  
21 code by setting forth the exception or deletion to the code.  
22 The ordinance shall further specify at least one  
23 place within the municipality where the code, so adopted, is  
24 available for inspection during the normal and regular  
25 business hours of the municipal clerk. A copy of the code

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1 shall be available upon request and payment of a reasonable  
2 charge.

3 C. Any amendment to such a code may be adopted in  
4 the same manner as other ordinances are adopted. "

5 Section 2. Section 3-18-6 NMSA 1978 (being Laws 1965,  
6 Chapter 300, Section 14-17-5, as amended) is amended to read:

7 "3-18-6. BUILDING CONSTRUCTION AND RESTRICTIONS--  
8 ESTABLISHING FIRE ZONES. --

9 A. Within its planning and platting jurisdiction,  
10 a municipality may by ordinance:

11 (1) prescribe standards for constructing and  
12 altering buildings;

13 (2) prescribe the distance a building may be  
14 built from the street line;

15 (3) regulate the construction of partition  
16 fences and party walls; and

17 (4) have exclusive enforcement over permits  
18 issued by the municipality when enforced by an approved  
19 inspector.

20 B. A municipality may establish fire zones and  
21 prohibit within these zones the construction or addition of  
22 structures which do not meet the fire resistance ratings or  
23 standards established for each zone.

24 C. The provisions of Subsection A of this section  
25 shall not apply to:

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1 (1) [~~to~~] construction specifically exempted  
2 by the Construction Industries Licensing Act or regulations  
3 adopted pursuant thereto; or

4 (2) [~~to~~] territory outside the boundary of a  
5 municipality if a county by ordinance prescribes standards for  
6 constructing and altering buildings.

7 D. If a state code with the same subject matter  
8 has been adopted pursuant to the Construction Industries  
9 Licensing Act, no ordinance enacted pursuant to Subsection A  
10 of this section shall contain standards more stringent than  
11 those in the state code. "

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

14 "60-13-44. TRADE BUREAUS--STANDARDS--CONFLICTS.--

15 A. The electrical bureau shall recommend to the  
16 commission minimum standards for the installation or use of  
17 electrical wiring. The recommendations shall substantially  
18 embody the applicable provisions of electrical standards for  
19 safety to life and property promulgated by a nationally  
20 recognized underwriting laboratory, as approved by a  
21 nationally recognized standards association, which standards  
22 are in general use in the United States or in a clearly  
23 defined region of the United States.

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 the  
4 Uniform Mechanical Code published by the international  
5 conference of building officials and the Uniform Plumbing Code  
6 published by the international association of mechanical and  
7 plumbing officials.

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

24 D. The general construction bureau shall recommend  
25 to the commission additional specifications for any public

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1 building constructed in the state through expenditure of  
2 state, county or municipal funds, bonds and other revenues,  
3 which specifications shall embody standards making the  
4 building accessible to individuals who are physically  
5 handicapped, and the specifications shall conform  
6 substantially with those contained in a nationally recognized  
7 standard for making public facilities accessible to the  
8 physically handicapped. All orders, rules and regulations  
9 recommended by the general construction bureau and adopted by  
10 the commission under the provisions of this section shall be  
11 printed and distributed to all licensed contractors,  
12 architects and engineers and to the governor's committee on  
13 concerns of the handicapped. The orders, rules and  
14 regulations shall take effect on a date fixed by the  
15 commission, which shall not be less than thirty days after  
16 their adoption by the commission, and shall have the force of  
17 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~~] The codes  
25 constitute [~~a minimum~~] the requirement for the codes of

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1 political subdivisions, and no political subdivision of the  
2 state shall adopt a code with requirements more stringent than  
3 those adopted pursuant to the Construction Industries  
4 Licensing Act.

5 G. The trade bureaus within their respective  
6 jurisdictions shall recommend to the commission standards for  
7 the installation or use of electrical wiring, the installation  
8 of all fixtures, consumers' gas pipe, appliances and materials  
9 installed in the course of mechanical installation and the  
10 construction, alteration or repair of all buildings intended  
11 for use by the physically handicapped or persons requiring  
12 special facilities to accommodate the aged. The  
13 recommendations shall give due regard to physical, climatic  
14 and other conditions peculiar to New Mexico.

15 H. The trade bureaus within their respective  
16 jurisdictions shall recommend to the commission standards for  
17 the construction, alteration, repair, use or occupancy of  
18 manufactured commercial units, modular homes and  
19 premanufactured homes. The recommendations shall  
20 substantially embody the applicable provisions or standards  
21 for the safety to life, health, welfare and property approved  
22 by the nationally recognized standards association, which  
23 standards are in general use in the United States or in a  
24 clearly defined region of the United States, and shall give  
25 due regard to physical, climatic and other conditions peculiar

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1 to New Mexico. Wherever existing state codes or standards  
2 conflict with the codes and standards adopted by the  
3 commission under the provisions of this subsection, the  
4 provisions of the New Mexico Uniform Building Code, the New  
5 Mexico Electrical Code, the New Mexico Uniform Plumbing Code  
6 or the New Mexico Natural Gas Code shall exclusively apply and  
7 control, except for codes and standards for mobile housing  
8 units.

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

19 J. The commission shall review all recommendations  
20 made under the provisions of this section and shall by  
21 regulation adopt standards and codes which substantially  
22 comply with the requirements of this section which apply to  
23 the recommendations of the trade bureaus. "



1 FORTY- FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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4  
5 February 4, 1999

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7 Mr. President:

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9 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to  
10 whom has been referred  
11

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13 SENATE BILL 291

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15 has had it under consideration and reports same with  
16 recommendation that it DO PASS, and thence referred to the  
17 FINANCE COMMITTEE.

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19 Respectfully submitted,  
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Roman M. Maes, Chairman

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Adopted \_\_\_\_\_ Not

Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Aragon, Macias, McKibben, Rawson

Absent: None

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