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SENATE BILL 554

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

INTRODUCED BY

John Arthur Smith

AN ACT

RELATING TO LICENSING; CHANGING THE DEFINITION OF "CONTRACTOR"
IN THE CONSTRUCTION INDUSTRIES LICENSING ACT.

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

Section 1. Section 60-13-3 NMSA 1978 (being Laws 1978, Chapter 66, Section 1, as amended by Laws 1997, Chapter 181, Section 2 and also by Laws 1997, Chapter 235, Section 1) is amended to read:

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

A. means any person who undertakes, offers to undertake by bid or other means or purports to have the capacity to undertake, by himself or through others, contracting. Contracting includes [~~but is not limited to~~] constructing, altering, repairing, installing or demolishing

underscored material = new
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1 any:

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

4 (2) building, stadium or other structure;

5 (3) airport, subway or similar facility;

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

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

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

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

14 (8) transmission line;

15 (9) radio, television or other tower;

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

17 (11) shaft, tunnel or mining appurtenance;

18 (12) leveling or clearing land;

19 (13) excavating earth;

20 (14) air conditioning, conduit, heating or
21 other similar mechanical works;

22 (15) electrical wiring, plumbing or plumbing
23 fixture, consumers' gas piping, gas appliances or water
24 conditioners; or

25 (16) similar work, structures or

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1 installations which are covered by applicable codes adopted
2 under the provisions of the Construction Industries Licensing
3 Act;

4 B. includes subcontractor and specialty
5 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
9 other consultants required for the building project; and who
10 utilizes his skill and knowledge of general contracting to
11 develop schedules, prepare project construction estimates,
12 study labor conditions and advise concerning construction; and

13 D. does not include:

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

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

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

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

19 (5) any railroad company;

20 (6) a telephone or telegraph company or rural
21 electric cooperative [~~which~~] that installs, alters or repairs
22 electrical equipment and devices for the operation of signals
23 or the transmission of intelligence where that work is an
24 integral part of the operation of a communication system owned
25 and operated by a telephone or telegraph company or rural

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1 electric cooperative in rendering authorized service;

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

12 (8) any mining company, gas company or oil
13 company [~~which~~] that installs, alters or repairs its
14 facilities, including [~~but not limited to~~] plumbing fixtures
15 or gas piping, where the work is an integral part of the
16 installing or operating of a system owned or operated by the
17 mining company, gas company or oil company; provided the
18 construction of a building by a mining company, a gas company
19 or an oil company is required to be done in conformity with
20 all other provisions of the Construction Industries Licensing
21 Act and with orders, rules, regulations, standards and codes
22 adopted pursuant to that act;

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

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

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

21 (12) a person who, by himself or with the aid
22 of others who are paid wages and receive no other form of
23 compensation, builds or makes installations, repairs or
24 alterations in or to a building or other improvement on a farm
25 or ranch owned, occupied or operated by him, or makes

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1 installations of electrical wiring [~~which~~] that are not to be
2 connected to electrical energy supplied from a power source
3 outside the premises of the farm or ranch owned, occupied or
4 operated by him; provided that the state codes and any local
5 codes adopted pursuant to Subsection F of Section 60-13-44
6 NMSA 1978 shall not require any permits or inspections for
7 such construction on a farm or ranch except for electrical
8 wiring to be connected to a power source outside the premises;

9 (13) an individual who works only for wages;

10 (14) an individual who works on one

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

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

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

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

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

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

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

22 (18) a person who performs work consisting of
23 short-term depreciable improvements to commercial property to
24 provide needed repairs and maintenance such as painting,
25 carpeting, flooring and similar items if the total amount paid

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

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1 FORTY- FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3
4
5 February 23, 1999

6
7 Mr. President:

8
9 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to
10 whom has been referred
11

12
13 SENATE BILL 554

14
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: Kidd, Kysar, Macias, Rawson

Absent: None

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1 FORTY-FOURTH LEGISLATURE

SB 554/a

2 FIRST SESSION, 1999

6 March 3, 1999

8 Mr. President:

10 Your FINANCE COMMITTEE, to whom has been referred

12 SENATE BILL 554

14 has had it under consideration and reports same with
15 recommendation that it DO PASS, amended as follows:

- 17
- 18 1. On page 8, lines 24 and 25, strike "such as painting,
- 19 carpeting, flooring and similar items" and insert in lieu
- 20 thereof "for items not covered by building codes adopted by the
- 21 construction industry commission".

23 Respectfully submitted,

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FIRST SESSI ON, 1999

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Ben D. Altami rano, Chair man

Adopted _____ Not

Adopted _____

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Date _____

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: Campos, Gri ego, Lyons, Rodrigue z, Tsosi e

Absent: None

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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6 March 18, 1999
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8 Mr. Speaker:
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10 Your BUSINESS AND INDUSTRY COMMITTEE, to whom has
11 been referred
12

13 SENATE BILL 554, as amended
14

15 has had it under consideration and reports same with
16 recommendation that it DO PASS.

17 Respectfully submitted,
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21 _____
22 Fred Luna, Chairman
23
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1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3 HBIC/SB 554a

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4 Adopted _____ Not Adopted _____
5 (Chief Clerk) (Chief Clerk)

6
7 Date _____

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9 The roll call vote was 11 For 0 Against

10 Yes: 11

11 Excused: Hobbs

12 Absent: None

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