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BILL

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO CONSTRUCTION INSPECTORS; AMENDING THE CONSTRUCTION INDUSTRIES LICENSING ACT TO ACCOMMODATE STATEWIDE INSPECTOR'S LICENSES; ESTABLISHING CERTIFIED BUILDING OFFICIALS; ALLOWING FOR INDEPENDENT INSPECTION SERVICES COMPANIES.

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

**SECTION 1.** Section 60-13-2 NMSA 1978 (being Laws 1967, Chapter 199, Section 2, as amended) is amended to read:

"60-13-2. GENERAL DEFINITIONS.--As used in the Construction Industries Licensing Act:

A. "division" means the construction industries division of the regulation and licensing department;

B. "trade bureau" means the electrical bureau, the mechanical bureau, the general construction bureau or the liquefied petroleum gas bureau of the division;

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1 C. "jurisdictional conflict" means [~~any~~] a conflict  
2 between or among trade bureaus as to the exercise of  
3 jurisdiction over an occupation or trade for which a license is  
4 required under the provisions of the Construction Industries  
5 Licensing Act;

6 D. "person" includes an individual, firm,  
7 partnership, corporation, association or other organization, or  
8 any combination thereof;

9 E. "qualifying party" means [~~any~~] an individual who  
10 submits to the examination for a license to be issued under the  
11 Construction Industries Licensing Act and who is responsible  
12 for the licensee's compliance with the requirements of that act  
13 and with the rules, regulations, codes and standards adopted  
14 and promulgated in accordance with that act;

15 F. "certificate of qualification" means a  
16 certificate issued by the division to a qualifying party;

17 G. "journeyman" means [~~any~~] an individual who is  
18 properly certified by the electrical bureau or the mechanical  
19 bureau, as required by law, to engage in or work at [~~his~~] the  
20 certified trade;

21 H. "apprentice" means an individual who is engaged,  
22 as [~~his~~] the individual's principal occupation, in learning and  
23 assisting in a trade;

24 I. "wages" means compensation paid to an individual  
25 by an employer from which taxes are required to be withheld by

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1 federal and state law;

2 J. "public use" means the use or occupancy of [~~any~~]  
3 a structure, facility or manufactured commercial unit to which  
4 the general public, as distinguished from residents or  
5 employees, has access;

6 K. "bid" means a written or oral offer to contract;

7 L. "building" means [~~any~~] a structure built for use  
8 or occupancy by persons or property, including manufactured  
9 commercial units and modular homes or premanufactured homes  
10 designed to be placed on permanent foundations whether mounted  
11 on skids or permanent foundations or whether constructed on or  
12 off the site of location;

13 M. "inspection agency" means a firm, partnership,  
14 corporation, association or any combination thereof approved in  
15 accordance with regulations as having the personnel and  
16 equipment available to adequately inspect for the proper  
17 construction of manufactured commercial units, modular homes or  
18 premanufactured homes;

19 N. "director" means the administrative head of the  
20 division;

21 O. "chief" means the administrative head of a trade  
22 bureau;

23 P. "commission" means the construction industries  
24 commission;

25 Q. "manufactured commercial unit" means a movable

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1 or portable housing structure over thirty-two feet in length or  
2 over eight feet in width that is constructed to be towed on its  
3 own chassis and designed so as to be installed without a  
4 permanent foundation for use as an office or other commercial  
5 purpose and that may include one or more components that can be  
6 retracted for towing purposes and subsequently expanded for  
7 additional capacity, or two or more units separately towable  
8 but designed to be joined into one integral unit, as well as a  
9 single unit, but that does not include any movable or portable  
10 housing structure over twelve feet in width and forty feet in  
11 length that is used for nonresidential purposes. "Manufactured  
12 commercial unit" does not include modular or premanufactured  
13 homes, built to a nationally recognized standard adopted by the  
14 commission and designed to be permanently affixed to real  
15 property; [~~and~~]

16 R. "code" means a body or compilation of provisions  
17 or standards adopted by the commission that govern contracting  
18 or some aspect of contracting; that provide for safety and  
19 protection of life and health; and that are published by a  
20 nationally recognized standards association;

21 S. "inspector" means a person licensed by the  
22 division and certified by one or more trade bureaus to conduct  
23 inspections of permitted work to ensure that all work performed  
24 by a contractor complies with the applicable code;

25 T. "statewide inspector's license" means a license

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1 that enables an inspector to conduct inspections in one or more  
2 trade bureau jurisdictions for the state or any county,  
3 municipality or other political subdivision that has a  
4 certified building official in its employ; and

5 U. "certified building official" means an employee  
6 of any county, municipality or other political subdivision who  
7 has a broad knowledge of the construction industry, holds a  
8 current international code council certified building official  
9 certificate and has been a practicing inspector or practicing  
10 contractor or has held an administrative position in a  
11 construction company or organization for at least five of the  
12 past ten years."

13 SECTION 2. Section 60-13-9 NMSA 1978 (being Laws 1978,  
14 Chapter 73, Section 1, as amended) is amended to read:

15 "60-13-9. DIVISION--DUTIES.--The division shall:

16 A. approve and adopt examinations on codes and  
17 standards, business knowledge, division rules and regulations  
18 and on the Construction Industries Licensing Act recommended by  
19 the commission for all classifications of contractor's  
20 licenses;

21 B. issue, under the director's signature,  
22 contractor's licenses and certificates of qualification in  
23 accordance with the provisions of the Construction Industries  
24 Licensing Act;

25 C. submit a list of all contractor's licenses,

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1 statewide inspector's licenses and certificates of  
2 qualification issued by the division to the commission for  
3 review and approval;

4 D. resolve jurisdictional conflicts by assigning  
5 specific responsibility to the appropriate bureau for preparing  
6 examinations and for certifying and inspecting each occupation,  
7 trade or activity covered by the Construction Industries  
8 Licensing Act;

9 E. establish and collect fees authorized to be  
10 collected by the division pursuant to the Construction  
11 Industries Licensing Act;

12 F. adopt all building codes and minimum standards  
13 as recommended by the trade bureaus and approved by the  
14 commission so that the public welfare is protected, uniformity  
15 is promoted and conflicting provisions are avoided;

16 G. with approval of the superintendent of  
17 regulation and licensing, employ such personnel as the division  
18 deems necessary for the exclusive purpose of investigating  
19 violations of the Construction Industries Licensing Act,  
20 enforcing Sections 60-13-12 and 60-13-38 NMSA 1978 and  
21 instituting legal action in the name of the division to  
22 accomplish the provisions of Section 60-13-52 NMSA 1978;

23 H. approve, disapprove or revise the recommended  
24 budget of each trade bureau and submit the budgets of those  
25 bureaus, along with its own budget, to the regulation and

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1 licensing department;

2 I. approve, disapprove or revise and submit to the  
3 regulation and licensing department all requests of the trade  
4 bureaus for emergency budget transfers;

5 J. make an annual report to the superintendent of  
6 regulation and licensing and develop a policy manual concerning  
7 the operations of the division and the trade bureaus. The  
8 report shall also contain the division's recommendations for  
9 legislation it deems necessary to improve the licensing and  
10 technical practices of the construction and LP gas industries  
11 and to protect persons, property and agencies of the state and  
12 its political subdivisions;

13 K. adopt, subject to commission approval, rules and  
14 regulations necessary to carry out the provisions of the  
15 Construction Industries Licensing Act and the LPG and CNG Act;

16 L. maintain a complete record of all applications;  
17 all licenses issued, renewed, canceled, revoked and suspended;  
18 and all fines and penalties imposed by the division or  
19 commission and may make that information available to certified  
20 code jurisdictions;

21 M. furnish, upon payment of a reasonable fee  
22 established by the division, a certified copy of any license  
23 issued or of the record of the official revocation or  
24 suspension thereof. Such certified copy shall be prima facie  
25 evidence of the facts stated therein; and

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1 N. publish a list of contractors, with their  
2 addresses and classifications, licensed by the division. The  
3 list shall be furnished without charge to such public  
4 officials, public bodies or public works and building  
5 departments as the division deems advisable. The list shall be  
6 published annually, and supplements shall be provided as the  
7 division deems necessary. Copies of the list and supplements  
8 shall be furnished to any person upon request and payment of a  
9 reasonable fee established by the division."

10 SECTION 3. Section 60-13-24 NMSA 1978 (being Laws 1967,  
11 Chapter 199, Section 27, as amended) is amended to read:

12 "60-13-24. CERTIFICATES OF QUALIFICATION--STATEWIDE  
13 INSPECTOR'S LICENSES--CAUSES FOR REVOCATION OR SUSPENSION.--Any  
14 certificate of qualification or statewide inspector's license  
15 shall be revoked or suspended by the commission for the  
16 following causes:

17 A. misrepresentation of a material fact by the  
18 individual in obtaining the certificate or license;

19 B. violation, willfully or by reason of  
20 incompetence, of any provision of the Construction Industries  
21 Licensing Act or any code, minimum standard, rule or regulation  
22 adopted pursuant to that act; or

23 C. aiding, abetting, combining or conspiring with a  
24 person to evade or violate the provisions of the Construction  
25 Industries Licensing Act or any code, minimum standard, rule or

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1 regulation adopted pursuant to that act."

2 SECTION 4. Section 60-13-41 NMSA 1978 (being Laws 1967,  
3 Chapter 199, Section 49, as amended) is amended to read:

4 "60-13-41. INSPECTORS--DESIGNATED INSPECTION  
5 AGENCIES.--

6 A. State inspectors shall be employed by the  
7 director.

8 B. Qualifications [~~and job descriptions~~] for  
9 inspectors [~~for the state, municipalities and all other~~  
10 ~~political subdivisions~~] shall be prescribed by the commission.

11 Inspectors shall meet the minimum continuing education  
12 requirements as prescribed by the commission for each trade  
13 bureau jurisdiction and provide proof of such credits to the  
14 division upon application for or renewal of licensure.

15 C. The division shall certify and issue a statewide  
16 inspector's license to any person who meets the requirements  
17 established by the commission for licensure. The license shall  
18 list all trade bureau jurisdictions for which the inspector is  
19 certified to inspect and shall be valid for a term of three  
20 years.

21 D. Any licensed inspector shall be employed by the  
22 state, counties, municipalities and other political  
23 subdivisions in order to inspect permits issued by that  
24 locality in the jurisdiction for which the inspector is  
25 certified; provided that the locality has a certified building

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1 official in its employ and has adopted the current minimum code  
2 standards as established by the commission.

3 E. The state or its agent shall conduct all  
4 inspections if a county, municipality or other political  
5 subdivision does not have a certified building official in its  
6 employ. However, a county, municipality or other political  
7 subdivision can enter into a memorandum of understanding or a  
8 joint powers agreement to share a certified building official  
9 or licensed inspectors with another county, municipality or  
10 other political subdivision; provided that the certified  
11 building official is employed in the same county or in an  
12 adjacent county.

13 F. A person currently acting in the capacity of a  
14 certified building official may continue to act in that  
15 capacity and shall have twelve months from the effective date  
16 of this 2013 act to become a certified building official as  
17 prescribed by the Construction Industries Licensing Act.

18 ~~[G.]~~ G. The division may appoint inspection  
19 agencies to inspect the construction, installation, alteration  
20 or repair of manufactured commercial units, modular homes and  
21 premanufactured homes, including those manufacturers whose  
22 business premises are without the state, to ensure that the New  
23 Mexico standards of construction and installation are adhered  
24 to and that the quality of construction meets all New Mexico  
25 codes and standards. If the inspection agency has no place of

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1 business within the state, it shall file a written statement  
2 with the secretary of state setting forth its name and business  
3 address and designating the secretary of state as its agent for  
4 the service of process.

5 ~~[D. The division may enter into reciprocal~~  
6 ~~agreements with other jurisdictions having comparable codes,~~  
7 ~~standards and inspection requirements for the inspection of the~~  
8 ~~construction, alteration or repair of modular homes,~~  
9 ~~premanufactured homes and manufactured commercial units.~~

10 ~~E.]~~ H. The division [~~may~~] shall, with the approval  
11 of the commission, establish qualifications for inspectors  
12 certified to inspect in more than one bureau's jurisdiction.

13 I. Any complaint brought against an inspector shall  
14 cause the director to assign an investigator to investigate the  
15 merits of the complaint and report to the commission within  
16 thirty days."

17 SECTION 5. REPEAL.--Section 60-13-43 NMSA 1978 (being  
18 Laws 1967, Chapter 199, Section 51, as amended) is repealed.