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SENATE BILL

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

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO LOCAL GOVERNMENT; AMENDING, REPEALING AND ENACTING
SECTIONS OF THE NMSA 1978 TO PROVIDE FOR POWERS AND DUTIES OF
LOCAL GOVERNMENT CHIEF BUILDING OFFICIALS; CHANGING THE
CONSTRUCTION INDUSTRIES COMMISSION AUTHORITY OVER LOCAL
GOVERNMENT INSPECTORS; PROVIDING A PENALTY.

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, as amended) 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:

- (1) an administrative code;
- (2) an air pollution code;

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1 (3) a building code that includes provisions
2 for plan review, permitting and inspections for general,
3 electrical, mechanical and plumbing construction;

4 (4) an elevator code;

5 (5) a fire prevention code;

6 (6) a health code;

7 (7) a housing code;

8 (8) a traffic code; or

9 (9) any other code not in conflict with the
10 laws of New Mexico or valid regulations issued by any board or
11 agency of New Mexico authorized to issue regulations.

12 Any code so adopted shall provide for minimum requirements
13 at least equal to the state requirements on the same subject.

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

24 C. Any amendment to such a code may be adopted in
25 the same manner as other ordinances are adopted.

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1 D. If a municipality adopts a building code that
2 includes provisions for plan review, permitting and inspections
3 for general, electrical, mechanical and plumbing construction
4 compliance services, a chief building official shall be
5 designated by the governing body. The chief building official
6 shall supervise and be responsible for building code compliance
7 functions of the municipality, including compliance with
8 standards for all public and private buildings within the
9 municipality's jurisdiction or within other jurisdictions with
10 which the municipality has a current agreement to provide
11 compliance enforcement.

12 E. The chief building official shall use for code
13 compliance only persons holding a current, valid certification
14 in one or more of the construction trades from an appropriate
15 national code compliance certifying organization. The person
16 shall be authorized to provide construction compliance services
17 in all trades for which that person is certified by an
18 appropriate national code compliance certifying organization.

19 F. In order to hear and decide appeals of orders,
20 decisions or determinations made by the chief building official
21 relative to the application and interpretation of building or
22 fire codes, the municipality shall create a board of appeals
23 consisting of construction industry members who are qualified
24 by experience and training to act on matters pertaining to
25 building construction and who are not employees of the

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1 jurisdiction."

2 SECTION 2. A new section of Chapter 5 NMSA 1978 is
3 enacted to read:

4 "[NEW MATERIAL] CONSTRUCTION CODE COMPLIANCE--PENALTY.--

5 A. Municipalities and counties may retain
6 independent construction code compliance entities to supplement
7 their code compliance staff to perform, by contract, some or
8 all of the construction code compliance duties in their
9 jurisdiction.

10 B. Construction code compliance entities shall:

11 (1) use only persons holding a currently valid
12 certification in one or more of the construction trades from a
13 national code compliance certifying organization as code
14 compliance inspectors;

15 (2) carry a minimum of one million dollars
16 (\$1,000,000) in errors and omissions or liability insurance on
17 behalf of the client municipality or county; and

18 (3) upon the request of the chief building
19 official of the municipality or county, submit each code
20 compliance inspector to a field proficiency test conducted by
21 the chief building official to determine the person's
22 qualifications for performing construction code compliance
23 duties.

24 C. Each code compliance inspector used by a code
25 compliance entity on behalf of a municipality or county may,

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1 during reasonable hours, enter any building or go upon any
2 premises in the discharge of official duties for the purpose of
3 making an inspection of work performed or for the purpose of
4 testing any installation authorized by the chief building
5 official of the municipality or county.

6 D. The code compliance inspector used by a code
7 compliance entity on behalf of a municipality or county may
8 disconnect or order the discontinuance of any service to any
9 installation, device, appliance or equipment found to be
10 dangerous to life or property or where the installation may
11 interfere with the work of a fire department because it is
12 defective or is incorrectly installed. The order shall be
13 effective until the installation, device, appliance or
14 equipment is made safe and is approved by the chief building
15 official of that municipality or county.

16 E. A notice shall be attached by the code
17 compliance inspector to the installation, device, appliance or
18 equipment that is disconnected stating the reason for the
19 disconnection. A person who removes the notice or uses the
20 installation, device, appliance or equipment without
21 authorization is guilty of a petty misdemeanor and is
22 punishable pursuant to Section 31-19-1 NMSA 1978.

23 F. The powers granted by this section to any code
24 compliance inspector used by a code compliance entity on behalf
25 of a municipality or county may be exercised by the inspector

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1 only in a municipality or county in which the code compliance
2 entity is contracted to make inspections.

3 G. The code compliance inspector used by a code
4 compliance entity on behalf of a municipality or county shall
5 be permitted to inspect work of a construction trade for which
6 the inspector is certified by an appropriate national code
7 compliance certifying organization."

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

10 "60-13-41. INSPECTORS--DESIGNATED INSPECTION
11 AGENCIES.--

12 A. State inspectors shall be employed by the
13 director.

14 B. Qualifications and job descriptions for
15 inspectors for the state [~~municipalities and all other~~
16 ~~political subdivisions~~] shall be prescribed by the commission.

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

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1 with the secretary of state setting forth its name and business
2 address and designating the secretary of state as its agent for
3 the service of process.

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

9 E. The division may, with the approval of the
10 commission, establish qualifications for inspectors certified
11 to inspect in more than one bureau's jurisdiction."

12 SECTION 4. REPEAL.--Section 60-13-43 NMSA 1978 (being
13 Laws 1967, Chapter 199, Section 51, as amended) is repealed.