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FISCAL IMPACT REPORT

ORIGINAL DATE 2/8/10

SPONSOR Gutierrez LAST UPDATED _____ HB 236

SHORT TITLE Construction Licensing and Contractor Definition SB _____

ANALYST Sanchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY10	FY11		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)
Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

House Bill 236 is an original bill that seeks to amend NMSA 1978, § 60-13-3, relating to the definition of a contractor under the Construction Industries Licensing Act.

House Bill 236 seeks to insert gender-neutral terminology through the statutory section by replacing the words "him" and "himself" with more gender-neutral terms, such as the "person." Clarifying language is added throughout the section that does not alter the meaning or definitions stated in the statutory section, and there is minor reorganization of definitions, likewise not affecting the meaning or definitions.

House Bill 236 seeks to remove NMSA 1978, § 60-13-3(D)(14), the "handyman exemption" to the licensing act whereby individuals can provide casual, minor, and inconsequential repairs provided (1) that compensation for such repairs does not exceed \$7,200 per year, and (2) such repairs do not include electrical, plumbing, or gas related services.

House Bill 236 seeks to remove NMSA 1978, § 60-13-3(D)(18), which provides an exemption to licensing for a person that provides "short-term depreciable improvements to commercial property" to provide repairs and maintenance, provided (1) the work is not governed by CIC building codes, and (2) the person's compensation does not exceed \$5,000 per project.

FISCAL IMPLICATIONS

According to the Regulation and Licensing Department (RLD), the proposed changes would have little if any fiscal impact on the Construction Industries Division (CID). CID currently operates a registration program under exception 14, known as the Handyman Program. Currently there are 183 active registrants.

SIGNIFICANT ISSUES

CID believes that there is a significant amount of handyman-type work being performed constantly in the State by both registered and un-registered individuals. If the “handyman exemption” were eliminated, a new classification of license for this type of work could be created by rule. This would ensure that this work is performed by individuals who have demonstrated at least a minimum degree of competency to perform the work. It would also give CID more oversight of this type of work, and create better demarcation between illegal unlicensed activity and legitimate licensed activity. Under the current exception for handyman-type work, CID has no authority to discipline handyman workers for non-code complaint work or any other violation of the CILA. Eliminating the exception and creating a new license classification would resolve this inequity.

According to the Attorney General’s Office (AGO), removal of the “handyman” and “maintenance-man” exemptions is likely to create an environment where minor repairs to homes and commercial properties will strictly require licensing. According to the AGO, removal of the handyman exemption would create room for an absurd legal interpretation of the statutory result.

PERFORMANCE IMPLICATIONS

The elimination of these exceptions could result in slightly increased permit and inspection activity.

OTHER SUBSTANTIVE ISSUES

According to the AGO, removal of the maintenance-man exemption may unnecessarily expose certain persons to administrative discipline and criminal penalties for performing repairs and other maintenance work for those items not governed by building codes. Presumably, if the work performed is so minor as to not be governed by building codes, the work should likewise not require licensing. The AGO believes removal of the maintenance-man exemption would create room for an absurd legal interpretation of the statutory result. For example, a son could be subject to administrative discipline and criminal penalties for performing work on his mother’s home, including adjusting doors and windows, or installing a screen door, etc, whether or not performed for compensation.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

CS/mt