

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 595

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

David L. Doyle

AN ACT

RELATING TO MANUFACTURED HOUSING; CHANGING THE ROLE OF THE  
MANUFACTURED HOUSING COMMITTEE; GRANTING RULEMAKING TO THE  
MANUFACTURED HOUSING DIVISION OF THE REGULATION AND LICENSING  
DEPARTMENT; PROVIDING FOR QUALIFICATIONS FOR THE DIVISION  
DIRECTOR.

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

SECTION 1. A new section of the Manufactured Housing Act  
is enacted to read:

"[NEW MATERIAL] MANUFACTURED HOUSING DIVISION  
DIRECTOR--APPOINTMENT AND QUALIFICATIONS.--The superintendent  
of regulation and licensing shall appoint the director, who  
shall be a person who meets at least one of the following  
qualifications:

A. is or has been an active practicing manufacturer

underscored material = new  
~~[bracketed material] = delete~~

underscored material = new  
[bracketed material] = delete

1 or construction contractor for at least five years;

2 B. is or has been an employee in an administrative  
3 position of a manufacturer or construction company for at least  
4 five of the past ten years;

5 C. has been employed by the manufactured housing  
6 division or construction industries division for at least five  
7 years and is knowledgeable in the administration of the law  
8 governing the manufactured housing division; or

9 D. is or has been actively engaged for at least  
10 five of the past ten years in an administrative position of an  
11 organization that requires the person to have a broad knowledge  
12 of the manufactured housing industry."

13 SECTION 2. Section 60-14-4 NMSA 1978 (being Laws 1978,  
14 Chapter 80, Section 1, as amended) is amended to read:

15 "60-14-4. POWERS AND DUTIES OF DIVISION.--The division  
16 shall:

17 A. prepare, administer and grade examinations for  
18 licensure under the classification sought by each applicant;

19 B. issue licenses and certificates of qualification  
20 in accordance with the provisions of the Manufactured Housing  
21 Act;

22 C. establish and collect fees authorized to be  
23 collected by the division pursuant to the Manufactured Housing  
24 Act;

25 D. subject to ~~[the approval]~~ recommendations of the

.185328.2

underscored material = new  
[bracketed material] = delete

1 committee, adopt rules [~~and regulations~~] relating to the  
2 construction, repair, modification, installation, tie-down,  
3 hookup and sale of all manufactured homes, which [~~regulations~~]  
4 rules shall be uniform throughout the state and shall be  
5 enforced by inspectors for the division to [~~insure~~] ensure  
6 minimum standards of safety within the state and any of its  
7 political subdivisions, and to carry out the provisions of the  
8 Manufactured Housing Act. Ordinances of any political  
9 subdivision of New Mexico relating to gas, including natural  
10 gas, liquefied petroleum gas or synthetic natural gas;  
11 electricity; sanitary plumbing; and installation or sale of  
12 manufactured homes shall not be inconsistent with any rules,  
13 [~~regulations~~] codes or standards adopted by the division  
14 pursuant to the Manufactured Housing Act;

15 ~~E. adopt a budget and submit it to the regulation~~  
16 ~~and licensing department for approval;~~

17 ~~F. make an annual report to the superintendent of~~  
18 ~~regulation and licensing concerning the operations of the~~  
19 ~~division. The report shall contain the division's~~  
20 ~~recommendations for legislation that it deems necessary to~~  
21 ~~improve the licensing and the ethical and technical practices~~  
22 ~~of the manufactured housing industry and to protect the public~~  
23 ~~welfare;~~

24 ~~G. subject to the approval of the committee, adopt~~  
25 ~~such rules, regulations, codes and standards as are necessary~~

.185328.2

underscored material = new  
[bracketed material] = delete

1 ~~to carry out the provisions of the Manufactured Housing Act;~~

2           ~~H.]~~ E. prepare a uniform manufacturer's warranty  
3 and require its adoption as a condition of licensure by all  
4 manufacturers of manufactured homes doing business in New  
5 Mexico;

6           ~~[I. subject to the approval of the committee]~~

7           F. on recommendation of the committee, adopt by  
8 ~~[regulation]~~ rule the mobile home construction and safety  
9 standards contained in the National Mobile Home Construction  
10 and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as  
11 amended;

12           ~~[J. subject to the approval of the committee]~~

13           G. on recommendation of the committee, adopt by  
14 ~~[regulation]~~ rule the mobile home procedural and enforcement  
15 regulations, 24 C.F.R. 3282, as amended, promulgated by the  
16 department of housing and urban development pursuant to the  
17 National Mobile Home Construction and Safety Standards Act of  
18 1974, 42 U.S.C. 5401 et seq., as amended;

19           ~~[K.]~~ H. issue permits and provide for a single  
20 inspection of every installation in New Mexico, regardless of  
21 the location;

22           ~~[L. subject to the approval of the committee]~~

23           I. on recommendation of the committee, adopt  
24 ~~[regulations]~~ rules prescribing standards for the installation  
25 or use of electrical wiring; the installation of all fixtures,

.185328.2

underscored material = new  
[bracketed material] = delete

1 plumbing, consumer's gas pipe, including natural gas, liquefied  
2 petroleum gas and synthetic natural gas, appliances and  
3 materials installed in the course of mechanical installation;  
4 and the construction, alteration, installation and repair of  
5 all manufactured homes intended for use in flood or mudslide  
6 areas designated pursuant to Section 3-18-7 NMSA 1978. The  
7 [~~regulations~~] rules shall give due regard to standards  
8 prescribed by the federal insurance administration pursuant to  
9 regulation 1910, Subsection 7(d), 79 Stat. 670, Section 1361,  
10 82 Stat. 587 and 82 Stat. 5757, all as amended, and shall give  
11 due regard to physical, climatic and other conditions peculiar  
12 to New Mexico;

13           ~~[M.]~~ J. conduct "inspector schools" so that each  
14 inspector under the division's jurisdiction is capable of  
15 giving a complete one-time inspection for the sufficiency of  
16 unit installation, construction and mechanical and electrical  
17 systems;

18           ~~[N.]~~ K. enter into cooperative agreements with  
19 federal agencies relating to manufactured housing and accept  
20 and use federal grants, matching funds or other financial  
21 assistance to further the purposes of the Manufactured Housing  
22 Act. The division may enter into agreements with  
23 municipalities and counties to provide for the inspection of  
24 manufactured homes by employees of municipalities and counties,  
25 to be performed under the supervision and control of the

.185328.2

underscored material = new  
[bracketed material] = delete

1 division. The division may allow all or a portion of the  
2 inspection fee collected by a local public body to be retained  
3 by the local public body. The portion of the fee retained  
4 shall be determined by the division and shall be related to the  
5 completeness of the inspection performed;

6 ~~[H.]~~ L. administer oaths through any member of the  
7 division, the director or a hearing officer;

8 ~~[P. subject to the approval of the committee]~~

9 M. on recommendation of the committee, adopt rules  
10 ~~[and regulations]~~ for the conducting of hearings and the  
11 presentation of views, consistent with the regulations  
12 promulgated by the department of housing and urban development,  
13 24 C.F.R. 3282.151 through 3282.156, as amended;

14 ~~[Q. subject to the approval of the committee]~~

15 N. on recommendation of the committee, adopt by  
16 ~~[regulation]~~ rule a requirement that dealers, repairmen and  
17 installers provide to consumers warranties on their product and  
18 work and prescribe by ~~[regulation]~~ rule minimum requirements of  
19 such warranties;

20 ~~[R.]~~ O. coordinate with and qualify inspectors for  
21 any multiple inspection program provided by the construction  
22 industries division of the regulation and licensing department  
23 for inspection of manufactured homes;

24 ~~[S. subject to the approval of the committee]~~

25 P. on recommendation of the committee, adopt

.185328.2

underscored material = new  
[bracketed material] = delete

1     ~~[regulations]~~ rules, codes and standards for manufactured homes  
2     used for nonresidential purposes; provided such manufactured  
3     homes being used for nonresidential purposes on May 18, 1988  
4     shall not be required to meet Uniform Building Code standards,  
5     except as to requirements for access to the handicapped, but  
6     manufactured homes being used for nonresidential purposes after  
7     May 18, 1988 shall be required to meet Uniform Building Code  
8     standards. None of the provisions contained in this subsection  
9     shall apply to retailers licensed by the motor vehicle division  
10    of the taxation and revenue department; and

11             ~~[F.]~~ Q. with the approval of the superintendent of  
12    regulation and licensing, employ such personnel as the director  
13    deems necessary for the exclusive purposes of investigating  
14    violations of the Manufactured Housing Act, enforcing Section  
15    60-14-17 NMSA 1978 and instituting legal action in the name of  
16    the division to enforce the provisions of Section 60-14-19 NMSA  
17    1978."

18             **SECTION 3.** Section 60-14-5 NMSA 1978 (being Laws 1977,  
19    Chapter 245, Section 220, as amended) is amended to read:

20             "60-14-5. MANUFACTURED HOUSING COMMITTEE CREATED--  
21    MEMBERSHIP--COMPENSATION--DUTIES.--

22             A. ~~[There is created within the division]~~ The  
23    "manufactured housing committee" is created and is  
24    administratively attached to the division. It shall be  
25    composed of seven members who are residents of New Mexico and

.185328.2

underscored material = new  
[bracketed material] = delete

1 who shall serve at the pleasure of the governor and be  
2 appointed by [~~him~~] the governor as follows:

3 (1) one member who is or is the designated  
4 representative of a manufacturer licensed under the  
5 Manufactured Housing Act;

6 (2) one member who is or is the qualifying  
7 party of a dealer licensed under the Manufactured Housing Act;

8 (3) one member who is or is the qualifying  
9 party of an installer licensed under the Manufactured Housing  
10 Act;

11 (4) one member who is a broker licensed under  
12 the Manufactured Housing Act; and

13 (5) three members who are manufactured housing  
14 unit owners not subject to licensure under the Manufactured  
15 Housing Act.

16 The term of office of each member of the committee is four  
17 years; provided that members shall be appointed for staggered  
18 terms beginning July 1, 1983 so that two terms end on June 30,  
19 1985, two terms end on June 30, 1986 and three terms end on  
20 June 30, 1987. Thereafter, all members shall be appointed to  
21 four-year terms. Members shall be appointed to provide  
22 adequate representation of all geographic areas of the state.

23 B. Each member of the committee [~~shall~~] is entitled  
24 to receive per diem and mileage as provided in the Per Diem and  
25 Mileage Act and shall receive no other compensation, perquisite

.185328.2



underscored material = new  
[bracketed material] = delete

1 or allowance.

2 C. The committee shall annually elect a [~~chairman~~  
3 chair and vice [~~chairman~~] chair from its membership. The  
4 director of the division shall serve as the executive secretary  
5 of the committee.

6 D. The committee shall meet at least bimonthly at  
7 the call of the [~~chairman~~] chair.

8 E. The committee shall provide technical and policy  
9 advice to the division, [~~review and approve or disapprove all~~]  
10 recommend rules, [~~regulations~~] standards and codes [~~subject to~~  
11 ~~its approval under the provisions of the Manufactured Housing~~  
12 ~~Act]~~ to the division and

13 [~~(1) establish by regulation classifications~~  
14 ~~of licenses issued by the division and qualifications and~~  
15 ~~examinations necessary for licensure under the Manufactured~~  
16 ~~Housing Act; and~~

17 ~~(2)]~~ suspend or revoke for cause any license or  
18 certificate of qualification issued by the division."

19 SECTION 4. Section 60-14-6 NMSA 1978 (being Laws 1978,  
20 Chapter 81, Section 1, as amended) is amended to read:

21 "60-14-6. BONDING REQUIREMENTS--DEALERS, BROKERS,  
22 SALESPERSONS, MANUFACTURERS, REPAIRMEN AND INSTALLERS.--

23 A. The division [~~with the approval of the~~  
24 ~~committee~~] may by [~~regulation~~] rule require each dealer,  
25 broker, salesperson, manufacturer, repairman and installer to

.185328.2

underscored material = new  
[bracketed material] = delete

1 furnish and maintain with the division a consumer protection  
2 bond underwritten by a corporate surety authorized to transact  
3 business in New Mexico, in a sum to be determined by  
4 [~~regulation~~] rule and in such form, and with either unit or  
5 blanket coverage, as required by [~~regulation~~] rule, to be  
6 conditioned upon the dealer, broker, salesperson, manufacturer,  
7 repairman or installer complying with the provisions of the  
8 Manufactured Housing Act and any other law applying to the  
9 licensee, and also as indemnity for any loss sustained by any  
10 person damaged:

11 (1) as a result of a violation by the licensee  
12 of any provision of the Manufactured Housing Act or of any  
13 [~~regulation~~] rule of the division adopted pursuant to that act;

14 (2) as a result of a violation of any  
15 [~~regulation~~] rule adopted by the division;

16 (3) by fraud of a licensee in the execution or  
17 performance of a contract; or

18 (4) by misrepresentation or the making of  
19 false promises through the advertising or the agents of a  
20 licensee.

21 B. The consumer protection bond may include  
22 provisions for the indemnification for any loss sustained by  
23 any consumer as the result of the refusal, failure or inability  
24 to transfer good and sufficient legal title to the consumer by  
25 the transferor or any other party claiming title.

.185328.2

underscored material = new  
[bracketed material] = delete

1 C. The committee may attach and disburse for cause  
2 any consumer protection bond furnished to the division pursuant  
3 to this section. The division [~~subject to the approval of the~~  
4 ~~committee~~] shall adopt the necessary rules [~~and regulations~~] to  
5 administer the provisions of this section."

6 SECTION 5. Section 60-14-7 NMSA 1978 (being Laws 1975,  
7 Chapter 331, Section 8, as amended) is amended to read:

8 "60-14-7. LICENSE REQUIRED--CLASSIFICATION--  
9 EXAMINATION.--

10 A. No person shall engage in business as a  
11 manufacturer, dealer, broker, repairman, installer or  
12 salesperson unless licensed as provided in the Manufactured  
13 Housing Act.

14 B. The [~~committee~~] division shall adopt  
15 [~~regulations~~] rules creating a system of license  
16 classifications covering the occupations of dealer, broker,  
17 manufacturer, repairman, installer and salesperson and  
18 providing for the qualifications and examination for each class  
19 of license.

20 C. No person shall import for sale or exchange, or  
21 engage in the business of selling, leasing or exchanging or  
22 offering for sale, lease or exchange, any manufactured home  
23 manufactured by any person who is not licensed as a  
24 manufacturer under the Manufactured Housing Act."

25 SECTION 6. Section 60-14-9 NMSA 1978 (being Laws 1975,

.185328.2

underscored material = new  
[bracketed material] = delete

1 Chapter 331, Section 9, as amended) is amended to read:

2 "60-14-9. LICENSE--APPLICATION--ISSUANCE.--

3 A. Application for a license required under Section  
4 60-14-7 NMSA 1978 for one of the classified occupations, or for  
5 a certificate of qualification of a qualifying party of a  
6 licensee other than an individual licensee, shall be submitted  
7 to the division on forms prescribed and furnished by the  
8 division. The application shall contain such information and  
9 be accompanied by such attachments as are required by  
10 [~~regulations~~] rules of the division. The forms shall be  
11 accompanied by the prescribed fee.

12 B. No license shall be issued by the division to  
13 [~~any~~] a person unless the division is satisfied that [~~he~~] the  
14 person is or has in [~~his~~] the person's employ a qualifying  
15 party who is qualified for the classification for which the  
16 application is made and who has satisfied the requirements of  
17 Subsection C of this section.

18 C. An applicant for licensure shall:

19 (1) demonstrate financial responsibility as  
20 required by [~~regulations~~] rules of the [~~committee~~] division;

21 (2) be of good reputation;

22 (3) not have engaged illegally in the licensed  
23 classification that [~~he~~] the applicant is applying for within  
24 one year prior to making the application;

25 (4) demonstrate familiarity with the rules

underscored material = new  
[bracketed material] = delete

1 [and regulations] adopted by the [committee] division  
2 concerning the classification for which application is made;

3 (5) if a corporation, have complied with the  
4 laws of New Mexico regarding qualifications for doing business  
5 in this state or have been incorporated in New Mexico and have  
6 and maintain a registered agent and a registered office in this  
7 state;

8 (6) if an individual or partnership, have  
9 maintained a residence or street address in New Mexico for at  
10 least thirty days preceding the date of application;

11 (7) submit proof of registration with the  
12 [~~revenue division of the~~] taxation and revenue department and  
13 submit a current tax identification number; and

14 (8) personally or through the applicant's  
15 qualifying party successfully pass an examination administered  
16 by the division in the license classification for which  
17 application is made."

18 SECTION 7. Section 60-14-10 NMSA 1978 (being Laws 1975,  
19 Chapter 331, Section 10, as amended) is amended to read:

20 "60-14-10. QUALIFYING PARTY--EXAMINATION--CERTIFICATE.--

21 A. Except as provided in Subsection C of this  
22 section, no certificate of qualification shall be issued to  
23 [~~any individual~~] a person desiring to be a qualifying party  
24 until [~~he~~] the person has passed with a satisfactory score an  
25 examination prepared, administered and graded by the division.

.185328.2

underscored material = new  
[bracketed material] = delete

1 B. The examination where applicable shall consist of:

2 (1) general business knowledge, the rules [~~and~~  
3 ~~regulations~~] of the division [~~and committee~~] and the provisions  
4 of the Manufactured Housing Act;

5 (2) technical knowledge and familiarity with the  
6 prescribed codes and minimum standards, which may be prepared  
7 and administered by an employee of the division who is expert  
8 in the particular classification for which certification is  
9 sought; and

10 (3) general knowledge of the statutes of this  
11 state relating to the sale, exchange or lease of manufactured  
12 homes, contracts of sale, agency and brokerage.

13 C. If a licensee is subject to suspension by the  
14 committee for failure of the licensee to have a qualifying  
15 party in [~~his~~] the licensee's employ, and the employment of the  
16 qualifying party is terminated without fault of the licensee,  
17 then an employee of the licensee who is experienced in the  
18 classification for which the certificate of qualification was  
19 issued and who has been employed two or more years by the  
20 licensee shall be issued without examination a temporary  
21 certificate of qualification in the classification for which  
22 the licensee is licensed. The temporary qualifying party shall  
23 be subject to passing the examination as set forth in this  
24 section within one year from the date of the temporary  
25 certificate's issuance.

.185328.2

underscored material = new  
[bracketed material] = delete

1 D. A certificate of qualification is not  
2 transferable."

3 SECTION 8. Section 60-14-12 NMSA 1978 (being Laws 1975,  
4 Chapter 331, Section 12, as amended) is amended to read:

5 "60-14-12. SUSPENSION AND REVOCATION.--Any license or  
6 certificate of qualification issued by the division shall be  
7 suspended for a definite period or revoked under the procedures  
8 of the Uniform Licensing Act by the committee for any of the  
9 following causes:

10 A. if a licensee or a qualifying party of a licensee  
11 violates any provision of the Manufactured Housing Act or any  
12 [~~regulations~~] rules adopted by the division [~~or committee~~]  
13 pursuant to that act;

14 B. false, misleading or deceptive advertising;

15 C. knowingly contracting or performing a service  
16 beyond the scope of the license;

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

19 E. misrepresentation or omission of a material fact  
20 in any manufactured home transaction;

21 F. failure to comply with the warranty requirements  
22 of the Manufactured Housing Act or any [~~regulation~~] rule of the  
23 [~~committee~~] division pursuant to those requirements;

24 G. failure by a manufacturer or dealer to transfer  
25 good and sufficient title to the purchaser of a manufactured

.185328.2

underscored material = new  
[bracketed material] = delete

1 home;

2 H. failure by a broker or dealer to provide the buyer  
3 and the seller of a pre-owned manufactured home with a closing  
4 statement as required by [~~regulation~~] rule of the [~~committee~~]  
5 division;

6 I. conviction of a licensee or a qualifying party of  
7 a licensee in any court of competent jurisdiction of a felony  
8 or any offense involving moral turpitude; or

9 J. failure by a dealer or broker in the transfer of a  
10 pre-owned manufactured home not owned at the time of the  
11 transaction by the dealer or broker to comply with title  
12 transfer provisions set forth by [~~regulation~~] rule of the  
13 division."

14 SECTION 9. Section 60-14-15 NMSA 1978 (being Laws 1975,  
15 Chapter 331, Section 23, as amended) is amended to read:

16 "60-14-15. [~~COMMITTEE AND DIVISION~~] CONSUMER  
17 COMPLAINTS--ORDERS--SUSPENSION--REVOCATION.--In addition to the  
18 other duties imposed on the [~~committee and~~] division under the  
19 Manufactured Housing Act, the [~~committee and~~] division shall  
20 receive complaints from any consumer who claims to be harmed by  
21 [~~any~~] a licensee and shall attempt to have the complaints  
22 adjusted to the reasonable satisfaction of the consumer. If  
23 the [~~committee or~~] division cannot secure a proper adjustment,  
24 the [~~committee or~~] division shall prepare a formal complaint  
25 for the consumer, and, pursuant to the provisions of the

.185328.2



underscored material = new  
[bracketed material] = delete

1 Uniform Licensing Act, the committee shall determine whether  
2 the licensee is in violation of the Manufactured Housing Act or  
3 of rules [~~and regulations~~] promulgated under that act. If the  
4 licensee is in violation of the Manufactured Housing Act or of  
5 the rules [~~and regulations~~] promulgated under that act, the  
6 committee may order [~~him~~] the licensee to comply, may suspend  
7 [~~his~~] the licensee's license until such time as the licensee  
8 complies with the order of the committee or may revoke [~~his~~]  
9 the license."

10 SECTION 10. Section 60-14-18 NMSA 1978 (being Laws 1979,  
11 Chapter 400, Section 2, as amended) is amended to read:

12 "60-14-18. [~~COMMITTEE OR~~] DIVISION--POWERS OF  
13 INJUNCTIONS--MANDAMUS.--The division [~~or committee~~] may enforce  
14 the provisions of the Manufactured Housing Act by injunction,  
15 mandamus or any proper legal proceeding in the district court  
16 of the county in which the offense was committed."

17 SECTION 11. TEMPORARY PROVISION--RULES.--The rules of the  
18 manufactured housing committee shall be deemed to be the rules  
19 of the manufactured housing division of the regulation and  
20 licensing department until amended or repealed by the division.

21 SECTION 12. REPEAL.--Section 9-16-13 NMSA 1978 (being  
22 Laws 1983, Chapter 297, Section 29) is repealed.

23 SECTION 13. EFFECTIVE DATE.--The effective date of the  
24 provisions of this act is July 1, 2011.