

AN ACT

RELATING TO CONSTRUCTION INSPECTORS; AMENDING THE CONSTRUCTION INDUSTRIES LICENSING ACT REGARDING STATEWIDE INSPECTOR CERTIFICATION; ESTABLISHING CERTIFIED BUILDING OFFICIALS; REPEALING SECTION 60-13-43 NMSA 1978 (BEING LAWS 1967, CHAPTER 199, SECTION 51, AS AMENDED).

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", "jurisdiction" and "trade bureau jurisdiction" mean the electrical bureau, the mechanical bureau, the general construction bureau or the liquefied petroleum gas bureau of the division;

C. "jurisdictional conflict" means a conflict between or among trade bureaus as to the exercise of jurisdiction over an occupation or trade for which a license is required under the provisions of the Construction Industries Licensing Act;

D. "person" includes an individual, firm, partnership, corporation, association or other organization,

or any combination thereof;

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

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

G. "journeyman" means an individual who is properly certified by the electrical bureau or the mechanical bureau, as required by law, to engage in or work at the certified trade;

H. "apprentice" means an individual who is engaged, as the individual's principal occupation, in learning and assisting in a trade;

I. "wages" means compensation paid to an individual by an employer from which taxes are required to be withheld by federal and state law;

J. "public use" means the use or occupancy of a structure, facility or manufactured commercial unit to which the general public, as distinguished from residents or employees, has access;

K. "bid" means a written or oral offer to

contract;

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

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

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

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

P. "commission" means the construction industries commission;

Q. "manufactured commercial unit" means a movable or portable housing structure over thirty-two feet in length or over eight feet in width that is constructed to be towed on its own chassis and designed so as to be installed without a permanent foundation for use as an office or other commercial purpose and that may include one or more components that can

be retracted for towing purposes and subsequently expanded for additional capacity, or two or more units separately towable but designed to be joined into one integral unit, as well as a single unit, but that does not include any movable or portable housing structure over twelve feet in width and forty feet in length that is used for nonresidential purposes.

"Manufactured commercial unit" does not include modular or premanufactured homes, built to a nationally recognized standard adopted by the commission and designed to be permanently affixed to real property;

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

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

T. "statewide inspector's certificate" means a certificate that enables an inspector to conduct inspections in one or more trade bureau jurisdictions for the state or any county, municipality or other political subdivision that has a certified building official in its employ; and

U. "certified building official" means an employee of any county, municipality or other political subdivision who has a broad knowledge of the construction industry, holds a current nationally recognized code organization certified building official certificate and has:

(1) been a practicing inspector or practicing contractor for at least five years; or

(2) held a management position in a construction-related company or construction organization for at least five of the past ten years."

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

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

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

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

C. submit a list of all contractor's licenses, statewide inspector's certificates and certificates of qualification issued by the division to the commission for

review and approval;

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

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

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

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

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

I. approve, disapprove or revise and submit to the

regulation and licensing department all requests of the trade bureaus for emergency budget transfers;

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

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

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

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

N. publish a list of contractors, with their addresses and classifications, licensed by the division. The

list shall be furnished without charge to such public officials, public bodies or public works and building departments as the division deems advisable. The list shall be published annually, and supplements shall be provided as the division deems necessary. Copies of the list and supplements shall be furnished to any person upon request and payment of a reasonable fee established by the division."

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

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

A. misrepresentation of a material fact by the individual in obtaining the certificate;

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

C. aiding, abetting, combining or conspiring with a person to evade or violate the provisions of the Construction Industries Licensing Act or any code, minimum standard, rule or regulation adopted pursuant to that act."

**SECTION 4.** Section 60-13-41 NMSA 1978 (being Laws 1967, HB 348  
Page 8



Chapter 199, Section 49, as amended) is amended to read:

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

A. State inspectors shall be employed by the director.

B. Qualifications for inspectors shall be prescribed by the commission, and applicants shall submit to an appropriate background check as prescribed by the commission. Inspectors shall meet the minimum continuing education requirements as prescribed by the nationally recognized code organization for each trade bureau jurisdiction and provide proof of such credits to the division upon application for or renewal of certification.

C. The division shall certify and issue a statewide inspector's certificate to any person who meets the requirements established by the nationally recognized code organization for certification. The certificate shall list all trade bureaus for which the inspector is certified to inspect and shall be valid for a term of three years.

D. An inspector shall be employed by a county, municipality or other political subdivision in order to inspect work under permits issued in the trade bureau for which the inspector is certified; provided that the county, municipality or other political subdivision has a certified building official in its employ and has adopted the current

minimum code standards as established by the commission.

E. Except as provided in Subsection F of this section, the state or its agent shall conduct all inspections if a county, municipality or other political subdivision does not have a certified building official in its employ.

F. A county, municipality or other political subdivision may enter into a memorandum of understanding to share a certified building official and inspectors operating under that certified building official with another county, municipality or other political subdivision; provided that the certified building official is employed in the same county, in an adjacent county, within one hundred miles of the county, municipality or other political subdivision or as approved by the division.

G. A person currently acting in the capacity of a certified building official may continue to act in that capacity and shall have five years from the effective date of this 2013 act to become a certified building official as prescribed by the Construction Industries Licensing Act. When a certified building official leaves the employ of a county, municipality or other political subdivision, the plan review, permitting and inspections overseen by that certified building official shall transfer to the state unless the county, municipality or other political subdivision, within sixty days or a longer period as approved by the division, replaces that

certified building official or enters into a memorandum of understanding pursuant to Subsection F of this section.

H. The division may appoint inspection agencies to inspect the construction, installation, alteration or repair of manufactured commercial units, modular homes and premanufactured homes, including those manufacturers whose business premises are without the state, to ensure that the New Mexico standards of construction and installation are adhered to and that the quality of construction meets all New Mexico codes and standards. If the inspection agency has no place of business within the state, it shall file a written statement with the secretary of state setting forth its name and business address and designating the secretary of state as its agent for the service of process.

I. The division shall, with the approval of the commission, establish qualifications for inspectors certified to inspect in more than one bureau's jurisdiction.

J. The director shall assign an investigator to investigate the merits of every complaint brought against an inspector and report to the commission within ten days."

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