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HOUSE BILL 205

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Rebecca Dow

AN ACT

RELATING TO RURAL ECONOMIC DEVELOPMENT; ENACTING THE VACANT RURAL BUILDING ACT; DIRECTING THE ADOPTION OF A BUILDING CODE VARIANCE APPLICABLE TO THE OCCUPANCY OF A VACANT COMMERCIAL BUILDING BY A SMALL BUSINESS THAT WILL REDUCE COMPLIANCE COSTS, ENCOURAGE RURAL ECONOMIC DEVELOPMENT AND PROTECT PUBLIC SAFETY; PROVIDING POWERS AND DUTIES; PROHIBITING A MUNICIPALITY FROM ENACTING CONTRARY ORDINANCES.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 4 of this act may be cited as the "Vacant Rural Building Act".

SECTION 2. [NEW MATERIAL] PURPOSE.--The purpose of the Vacant Rural Building Act is to:

- A. encourage and foster economic development in the

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1 state's rural communities; and

2 B. provide small businesses with an incentive to
3 occupy vacant commercial buildings in rural communities by
4 removing the substantial financial barriers to such occupancy
5 that are imposed by vacant commercial buildings having to
6 comply with building code requirements that do not affect
7 building safety.

8 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the
9 Vacant Rural Building Act:

10 A. "commission" means the construction industries
11 commission;

12 B. "division" means the construction industries
13 division of the regulation and licensing department;

14 C. "rural municipality" means an incorporated city,
15 town or village, whether incorporated under general act,
16 special act or special charter, having fifty thousand or fewer
17 inhabitants as of the last federal decennial census;

18 D. "small business" means a business entity,
19 including its affiliates, that is independently owned and
20 operated and employs fifty or fewer full-time employees; and

21 E. "vacant commercial building" means a building
22 used primarily for commercial purposes that has not been
23 occupied for three or more months.

24 SECTION 4. [NEW MATERIAL] COMMISSION AND DIVISION POWERS
25 AND DUTIES.--

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1 A. By or before January 1, 2018, the division with
2 the approval of the commission shall adopt rules to:

3 (1) allow a variance from strict compliance
4 with building code requirements for existing buildings, as
5 issued by the division, that have no impact on the safe use and
6 occupancy of a vacant commercial building by a small business
7 if the circumstances of the occupancy make strict compliance
8 with code requirements impossible, impracticable or infeasible,
9 including consideration for the financial cost of strict
10 compliance;

11 (2) require a small business intending to
12 occupy a vacant commercial building in a rural municipality to
13 remedy only those conditions in the vacant commercial building
14 that are determined by a code official to be unsafe; and

15 (3) provide for certification that a small
16 business's new occupancy of a vacant commercial building in a
17 rural municipality qualifies for and is subject to the rules
18 adopted pursuant to the Vacant Rural Building Act.

19 B. In developing the rules required by Subsection A
20 of this section, the commission and division shall consider:

21 (1) the standards and compliance requirements
22 applicable to historic buildings pursuant to the 2015 New
23 Mexico Existing Building Code as a model for compliance
24 requirements applicable to the occupancy of a vacant commercial
25 building in a rural municipality by a small business; and

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1 (2) building code compliance costs to small
2 businesses in bringing vacant commercial buildings in rural
3 municipalities up to code and, insofar as practicable, make
4 efforts to reduce such costs.

5 C. Nothing in this section shall be interpreted to
6 undermine the division's duty to promote the general welfare of
7 the people of New Mexico by providing for the protection of
8 life and property.

9 SECTION 5. Section 3-17-6 NMSA 1978 (being Laws 1965,
10 Chapter 300, Section 14-16-5, as amended) is amended to read:

11 "3-17-6. CODES ADOPTED AND ENFORCED BY REFERENCE--
12 AVAILABILITY.--

13 A. A municipality may adopt by ordinance the
14 conditions, provisions, limitations and terms of:

- 15 (1) an administrative code;
16 (2) an air pollution code;
17 (3) a building code that includes provisions
18 for plan review, permitting and inspections for general,
19 electrical, mechanical and plumbing construction;
20 (4) an elevator code;
21 (5) a fire prevention code;
22 (6) a health code;
23 (7) a housing code;
24 (8) a traffic code; or
25 (9) any other code not in conflict with the

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1 laws of New Mexico or valid regulations issued by any board or
2 agency of New Mexico authorized to issue regulations.

3 B. Any such code so adopted shall provide for
4 minimum requirements at least equal to the state requirements
5 on the same subject.

6 [~~B-~~] C. An ordinance adopting any such code need
7 only refer to the proper title and date of the code, without
8 setting forth the code's conditions, provisions, limitations
9 and terms, and may include any exception or deletion to the
10 code by setting forth the exception or deletion to the code.
11 The ordinance shall further specify at least one place within
12 the municipality where the code, so adopted, is available for
13 inspection during the normal and regular business hours of the
14 municipal clerk. A copy of the code shall be available upon
15 request and payment of a reasonable charge.

16 [~~G-~~] D. Any amendment to such a code may be adopted
17 in the same manner as other ordinances are adopted.

18 E. A municipality, including a home rule
19 municipality that has adopted a charter pursuant to Article 10,
20 Section 6 of the constitution of New Mexico, shall not adopt
21 ordinances or resolutions inconsistent with the rules adopted
22 pursuant to the Vacant Rural Building Act."