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HOUSE BILL 242

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

INTRODUCED BY

Paul C. Bandy

FOR THE GOVERNMENT RESTRUCTURING TASK FORCE

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; ELIMINATING THE RULEMAKING
AUTHORITY OF THE CONSTRUCTION INDUSTRIES COMMISSION AND THE
MANUFACTURED HOUSING COMMITTEE AND TRANSFERRING SUCH AUTHORITY
TO THE REGULATION AND LICENSING DEPARTMENT; ELIMINATING THE NEW
MEXICO ATHLETIC COMMISSION AND MEDICAL ADVISORY BOARD AND
TRANSFERRING THE DUTIES OF BOTH TO THE REGULATION AND LICENSING
DEPARTMENT; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

SECTION 1. Section 9-16-1 NMSA 1978 (being Laws 1983,
Chapter 297, Section 17) is amended to read:

"9-16-1. SHORT TITLE.--~~[Sections 17 through 29 of this
act]~~ Chapter 9, Article 16 NMSA 1978 may be cited as the
"Regulation and Licensing Department Act"."

SECTION 2. Section 9-16-12 NMSA 1978 (being Laws 1983,
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1 Chapter 297, Section 28, as amended) is amended to read:
2 "9-16-12. CONSTRUCTION INDUSTRIES COMMISSION--EXERCISE OF
3 POWERS AND DUTIES EXEMPT FROM AUTHORITY OF SUPERINTENDENT.--All
4 responsibilities of the construction industries commission
5 under Sections 60-13-6, 60-13-9, [~~through~~] 60-13-11,
6 60-13-13.2, 60-13-14 through 60-13-16, 60-13-18, 60-13-23
7 through 60-13-24, 60-13-27, 60-13-28, 60-13-36, 60-13-38,
8 60-13-41, 60-13-43, 60-13-44, [~~60-13-45~~] 60-13-49, 60-13-53,
9 [~~60-13-55~~] 60-13-57, 61-1-1 through 61-1-33, [~~70-5-3 through~~
10 ~~70-5-7~~] 70-5-11 through 70-5-15 and 70-5-18 NMSA 1978 are
11 hereby explicitly exempted from the authority of the
12 superintendent under the provisions of Subsection B of Section
13 9-16-6 NMSA 1978."

14 SECTION 3. Section 9-16-13 NMSA 1978 (being Laws 1983,
15 Chapter 297, Section 29) is amended to read:

16 "9-16-13. [~~MOBILE~~] MANUFACTURED HOUSING COMMITTEE--
17 EXERCISE OF POWERS AND DUTIES EXEMPT FROM AUTHORITY OF
18 SUPERINTENDENT.--All responsibilities of the [~~mobile~~]
19 manufactured housing committee under Sections 60-14-4 through
20 60-14-9, 60-14-12 and 60-14-14 NMSA 1978 are hereby explicitly
21 exempted from the authority of the superintendent of regulation
22 and licensing under the provisions of Subsection B of Section
23 [~~22 of this act~~] 9-16-6 NMSA 1978."

24 SECTION 4. Section 60-2A-2 NMSA 1978 (being Laws 1980,
25 Chapter 90, Section 2, as amended) is amended to read:

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1 "60-2A-2. DEFINITIONS.--As used in the Professional
2 Athletic Competition Act:

3 ~~[A. "board" means the medical advisory board;~~
4 ~~B. "commission" means the New Mexico athletic~~
5 ~~commission;~~

6 ~~G.]~~ A. "contestant" means a person who engages in
7 unarmed combat for remuneration;

8 ~~[D.]~~ B. "department" means the regulation and
9 licensing department;

10 ~~[E.]~~ C. "foreign co-promoter" means a promoter who
11 has no place of business in this state;

12 ~~[F.]~~ D. "manager":

13 (1) means a person who:

14 (a) undertakes to represent the
15 interests of another person by contract, agreement or other
16 arrangement in procuring, arranging or conducting a
17 professional contest or exhibition in which the represented
18 person will participate as a contestant;

19 (b) directs or controls the activities
20 of an unarmed combatant relating to the participation of the
21 unarmed combatant in professional contests or exhibitions;

22 (c) receives or is entitled to receive
23 at least ten percent of the gross purse or gross income of any
24 professional unarmed combatant for services relating to the
25 participation of the unarmed combatant in a professional

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1 contest or exhibition; or

2 (d) receives compensation for services
3 as an agent or representative of an unarmed combatant; and

4 (2) does not include an attorney who is
5 licensed to practice law in this state if the attorney's
6 participation in any of the activities described in Paragraph
7 (1) of this subsection is limited solely to the legal
8 representation of a client who is an unarmed combatant;

9 [~~G.~~] E. "professional boxer" or "professional
10 wrestler" means an individual who competes for money, prizes or
11 purses or who teaches, pursues or assists in the practice of
12 boxing, wrestling or martial arts as a means of obtaining a
13 livelihood or pecuniary gain;

14 [~~H.~~] F. "professional contest" means any
15 professional boxing, wrestling or martial arts contest or
16 exhibition, whether or not an admission fee is charged for
17 admission of the public;

18 [~~I.~~] G. "promoter" means any person, and in the
19 case of a corporate promoter includes any officer, director or
20 stockholder of the corporation, who produces or stages any
21 professional boxing, wrestling or martial arts contest,
22 exhibition or closed circuit television show;

23 [~~J.~~] H. "purse" means the financial guarantee or
24 any other remuneration, or part thereof, for which professional
25 boxers or professional wrestlers are participating in a contest

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1 or exhibition and includes the participant's share of any
2 payment received for radio broadcasting, television or motion
3 picture rights;

4 ~~[K.]~~ I. "ring official" means any person who
5 performs an official function during the progress of a contest
6 or exhibition;

7 ~~[H.]~~ J. "unarmed combat" means boxing, wrestling,
8 martial arts or any form of competition in which a blow is
9 usually struck that may reasonably be expected to inflict
10 injury; and

11 ~~[M.]~~ K. "unarmed combatant" means:

12 (1) a person who engages in unarmed combat in
13 a contest or exhibition, whether or not the person receives
14 remuneration, including a wrestler, boxer, mixed martial artist
15 or other contestant; or

16 (2) an amateur boxer who is registered with
17 United States amateur boxing, incorporated, or any other
18 amateur organization recognized by the ~~[commission]~~ department
19 and participates in an amateur boxing contest or exhibition in
20 the state that is registered and sanctioned by United States
21 amateur boxing, incorporated, or golden gloves of America."

22 **SECTION 5.** Section 60-2A-7 NMSA 1978 (being Laws 1980,
23 Chapter 90, Section 7) is amended to read:

24 "60-2A-7. ~~[MEDICAL ADVISORY BOARD]~~ DEPARTMENT DUTIES.--

25 ~~[A. There is created the "medical advisory board"~~

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1 ~~to assist the commission.~~

2 ~~B. The board shall consist of three members to be~~
3 ~~appointed by the commission. Each member of the board shall be~~
4 ~~licensed to practice medicine in this state and shall have had~~
5 ~~at the time of his appointment at least five years' experience~~
6 ~~in the practice of his profession. Members of the board shall~~
7 ~~serve without compensation.] The [board] department shall:~~

8 [~~(1)~~] A. prepare [~~and submit to the commission for~~
9 ~~its approval]~~ standards for the physical and mental examination
10 of professional boxers and professional wrestlers [~~which]~~ that
11 shall safeguard their health; [~~provided no standard shall~~
12 ~~become effective until approved by the commission;~~

13 ~~(2) recommend to the commission for licensing~~
14 ~~purposes]~~

15 B. locate physicians who are qualified to make
16 examinations of professional boxers and professional wrestlers;
17 and

18 [~~(3) upon request of the commission, advise~~
19 ~~the commission as to]~~

20 C. with the assistance of the appropriate
21 physicians, determine the physical and mental fitness of any
22 individual professional boxer or professional wrestler."

23 **SECTION 6.** Section 60-2A-20 NMSA 1978 (being Laws 1980,
24 Chapter 90, Section 20) is amended to read:

25 "60-2A-20. ATTENDANCE AT WEIGH-INS--MEDICAL

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1 EXAMINATIONS--PROFESSIONAL CONTESTS.--

2 A. ~~[The executive secretary or a member of the~~
3 ~~commission]~~ An employee of the department shall be present at
4 all weigh-ins, medical examinations and professional contests
5 and shall see that the provisions of the Professional Athletic
6 Competition Act and the rules made pursuant ~~[thereto]~~ to that
7 act are strictly enforced.

8 B. Every participant in a professional boxing
9 contest shall be present and weighed in no later than twelve
10 o'clock noon on the day of the professional contest."

11 SECTION 7. Section 60-13-2 NMSA 1978 (being Laws 1967,
12 Chapter 199, Section 2, as amended) is amended to read:

13 "60-13-2. GENERAL DEFINITIONS.--As used in the
14 Construction Industries Licensing Act:

15 A. "division" means the construction industries
16 division of the regulation and licensing department;

17 B. "trade bureau" means the electrical bureau, the
18 mechanical bureau, the general construction bureau or the
19 liquefied petroleum gas bureau of the division;

20 C. "jurisdictional conflict" means ~~[any]~~ a conflict
21 between or among trade bureaus as to the exercise of
22 jurisdiction over an occupation or trade for which a license is
23 required under the provisions of the Construction Industries
24 Licensing Act;

25 D. "person" includes an individual, firm,

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1 partnership, corporation, association or other organization, or
2 any combination thereof;

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

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

11 G. "journeyman" means [~~any~~] an individual who is
12 properly certified by the electrical bureau or the mechanical
13 bureau, as required by law, to engage in or work at [~~his~~] the
14 certified trade;

15 H. "apprentice" means an individual who is engaged,
16 as [~~his~~] the individual's principal occupation, in learning and
17 assisting in a trade;

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

21 J. "public use" means the use or occupancy of [~~any~~]
22 a structure, facility or manufactured commercial unit to which
23 the general public, as distinguished from residents or
24 employees, has access;

25 K. "bid" means a written or oral offer to contract;

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

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

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

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

17 P. "commission" means the construction industries
18 commission;

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

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1 additional capacity, or two or more units separately towable
2 but designed to be joined into one integral unit, as well as a
3 single unit, but that does not include any movable or portable
4 housing structure over twelve feet in width and forty feet in
5 length that is used for nonresidential purposes. "Manufactured
6 commercial unit" does not include modular or premanufactured
7 homes, built to a nationally recognized standard adopted by the
8 [~~commission~~] division and designed to be permanently affixed to
9 real property; and

10 R. "code" means a body or compilation of provisions
11 or standards adopted by the [~~commission~~] division that govern
12 contracting or some aspect of contracting; that provide for
13 safety and protection of life and health; and that are
14 published by a nationally recognized standards association."

15 SECTION 8. Section 60-13-3 NMSA 1978 (being Laws 1978,
16 Chapter 66, Section 1, as amended) is amended to read:

17 "60-13-3. DEFINITION--CONTRACTOR.--As used in the
18 Construction Industries Licensing Act, "contractor":

19 A. means [~~any~~] a person who undertakes, offers to
20 undertake by bid or other means or purports to have the
21 capacity to undertake, by [~~himself~~] the person alone or through
22 others, contracting. Contracting includes constructing,
23 altering, repairing, installing, [~~or~~] demolishing, leveling,
24 clearing or excavating any:

25 (1) road, highway, bridge, parking area or

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- 1 related project;
- 2 (2) building, stadium or other structure;
- 3 (3) airport, subway or similar facility;
- 4 (4) park, trail, bridle path, athletic field,
5 golf course or similar facility;
- 6 (5) dam, reservoir, canal, ditch or similar
7 facility;
- 8 (6) sewerage or water treatment facility,
9 power generating plant, pump station, natural gas compressing
10 station or similar facility;
- 11 (7) sewerage, water, gas or other pipeline;
- 12 (8) transmission line;
- 13 (9) radio, television or other tower;
- 14 (10) water, oil or other storage tank;
- 15 (11) shaft, tunnel or mining appurtenance;
- 16 (12) ~~[leveling or clearing]~~ land;
- 17 (13) ~~[excavating]~~ earth;
- 18 (14) air conditioning, conduit, heating or
19 other similar mechanical works;
- 20 (15) electrical wiring, plumbing or plumbing
21 fixture, consumers' gas piping, gas appliances or water
22 conditioners; or
- 23 (16) similar work, structures or installations
24 ~~[which]~~ that are covered by applicable codes adopted under the
25 provisions of the Construction Industries Licensing Act;

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1 B. includes subcontractor and specialty contractor;

2 C. includes a construction manager who coordinates
3 and manages the building process; who is a member of the
4 construction team with the owner, architect, engineer and other
5 consultants required for the building project; and who utilizes
6 ~~[his]~~ the construction manager's skill and knowledge of general
7 contracting to develop schedules, prepare project construction
8 estimates, study labor conditions and advise concerning
9 construction; and

10 D. does not include:

11 (1) ~~[any]~~ a person who merely furnishes
12 materials or supplies at the site without fabricating them
13 into, or consuming them in the performance of, the work of a
14 contractor;

15 (2) ~~[any]~~ a person who drills, completes,
16 tests, abandons or operates ~~[any]~~ a petroleum, gas or water
17 well; ~~[or]~~ services equipment and structures used in the
18 production and handling of ~~[any]~~ a product incident to the
19 production of ~~[any]~~ petroleum, gas or water wells, excluding
20 ~~[any]~~ a person performing duties normally performed by
21 electrical, mechanical or general contractors; or ~~[who]~~
22 performs geophysical or similar exploration for oil, gas or
23 water;

24 (3) a public utility or rural electric
25 cooperative that constructs, reconstructs, operates or

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1 maintains its plant or renders authorized service by the
2 installation, alteration or repair of facilities, up to and
3 including the meters, which facilities are an integral part of
4 the operational system of the public utility or rural electric
5 cooperative; provided that the construction of a building by a
6 public utility or rural electric cooperative or the
7 installation or repair of ~~[any]~~ a consumer gas or electrical
8 appliance not an integral part of the operational system makes
9 a public utility or rural electric cooperative a contractor for
10 that purpose;

11 (4) a utility department of ~~[any]~~ a
12 municipality or local public body rendering authorized service
13 by the installation, alteration or repair of facilities, up to
14 and including the meters, which facilities are an integral part
15 of the operational system of the utility department of the
16 municipality;

17 (5) ~~[any]~~ a railroad company;

18 (6) a telephone or telegraph company or rural
19 electric cooperative that installs, alters or repairs
20 electrical equipment and devices for the operation of signals
21 or the transmission of intelligence where that work is an
22 integral part of the operation of a communication system owned
23 and operated by a telephone or telegraph company or rural
24 electric cooperative in rendering authorized service;

25 (7) a pipeline company that installs, alters

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1 or repairs electrical equipment and devices for the operation
2 of signals or the transmission of intelligence where that
3 service is an integral part of the operation of the
4 communication system of that pipeline company and is not for
5 hire or for the use of the general public, or ~~any~~ a pipeline
6 company ~~which~~ that installs, alters or repairs plumbing
7 fixtures or gas piping where the work is an integral part of
8 installing and operating the system owned or operated by the
9 pipeline company in rendering its authorized service;

10 (8) ~~any~~ a mining company, gas company or oil
11 company that installs, alters or repairs its facilities,
12 including plumbing fixtures or gas piping, where the work is an
13 integral part of the installing or operating of a system owned
14 or operated by the mining company, gas company or oil company;
15 provided that the construction of a building by a mining
16 company, a gas company or an oil company is required to be done
17 in conformity with all other provisions of the Construction
18 Industries Licensing Act and with orders, rules, regulations,
19 standards and codes adopted pursuant to that act;

20 (9) a radio or television broadcaster who
21 installs, alters or repairs electrical equipment used for radio
22 or television broadcasting;

23 (10) an individual who, ~~by himself~~ alone or
24 with the aid of others who are paid wages and who receive no
25 other form of compensation, builds or makes installations,

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1 alterations or repairs in or to a single-family dwelling owned
2 and occupied or to be occupied by [~~him~~] the individual;
3 provided that the installation, building, alteration or repair
4 is required to be done in conformity with all other provisions
5 of the Construction Industries Licensing Act and with the
6 orders, rules, regulations, standards and codes adopted
7 pursuant to that act;

8 (11) a person who acts on [~~his~~] the person's
9 own account to build or improve a single-family residence for
10 [~~his~~] the person's personal use, including the building or
11 improvement of a freestanding storage building located on that
12 residential property; provided that the construction or
13 improvement is required to be done in conformity with all other
14 provisions of the Construction Industries Licensing Act and
15 with the orders, rules, regulations, standards and codes
16 adopted pursuant to that act; and provided further that [~~he~~]
17 the person does not engage in commercial construction;

18 (12) a person who, [~~by himself~~] alone or with
19 the aid of others who are paid wages and receive no other form
20 of compensation, builds or makes installations, repairs or
21 alterations in or to a building or other improvement on a farm
22 or ranch owned, occupied or operated by [~~him~~] the person, or
23 makes installations of electrical wiring that are not to be
24 connected to electrical energy supplied from a power source
25 outside the premises of the farm or ranch owned, occupied or

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1 operated by ~~[him]~~ the person; provided that the state codes and
2 ~~[any]~~ local codes adopted pursuant to Subsection F of Section
3 60-13-44 NMSA 1978 shall not require ~~[any]~~ permits or
4 inspections for such construction on a farm or ranch except for
5 electrical wiring to be connected to a power source outside the
6 premises;

7 (13) an individual who works only for wages;

8 (14) an individual who works on one
9 undertaking or project at a time that, in the aggregate or
10 singly, does not exceed seven thousand two hundred dollars
11 (\$7,200) compensation a year, the work being casual, minor or
12 inconsequential, such as handyman repairs; provided that this
13 exemption shall not apply to any undertaking or project
14 pertaining to the installation, connection or repair of
15 electrical wiring, plumbing or gas fitting as defined in
16 Section 60-13-32 NMSA 1978 and provided that:

17 (a) the work is not part of a larger or
18 major operation undertaken by the same individual or different
19 contractor;

20 (b) the individual does not advertise or
21 maintain a sign, card or other device ~~[which]~~ that would
22 indicate to the public that ~~[he]~~ the individual is qualified to
23 engage in the business of contracting; and

24 (c) the individual files annually with
25 the division, on a form prescribed by the division, a

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1 declaration substantially to the effect that [~~he~~] the
2 individual is not a contractor within the meaning of the
3 Construction Industries Licensing Act, that the work [~~he~~] the
4 individual performs is casual, minor or inconsequential and
5 will not include more than one undertaking or project at one
6 time and that the total amount of such contracts, in the
7 aggregate or singly, will not exceed seven thousand two hundred
8 dollars (\$7,200) compensation a year;

9 (15) [~~any~~] a person, firm or corporation that
10 installs fuel containers, appliances, furnaces and other
11 appurtenant apparatus as an incident to its primary business of
12 distributing liquefied petroleum fuel;

13 (16) a cable television or community antenna
14 television company that constructs, installs, alters or repairs
15 facilities, equipment, cables or lines for the provision of
16 television service or the carriage and transmission of
17 television or radio broadcast signals;

18 (17) [~~any~~] a weatherization project not
19 exceeding two thousand dollars (\$2,000) that has been approved
20 and is administered by a federal or state agency; or

21 (18) a person who performs work consisting of
22 short-term depreciable improvements to commercial property to
23 provide needed repairs and maintenance for items not covered by
24 building codes adopted by the [~~construction industry~~
25 ~~commission~~] division if the total amount paid the person for

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1 the work on a single undertaking, including materials, services
2 and wages of those who work for [~~him~~] the person, does not
3 exceed the sum of five thousand dollars (\$5,000)."

4 SECTION 9. Section 60-13-6 NMSA 1978 (being Laws 1977,
5 Chapter 245, Section 168, as amended) is amended to read:

6 "60-13-6. CONSTRUCTION INDUSTRIES COMMISSION CREATED--
7 MEMBERSHIP--DUTIES.--

8 A. There is created within the division the
9 "construction industries commission". The commission shall be
10 composed of nine voting members who shall serve at the pleasure
11 of the governor. Members shall be appointed by the governor,
12 with the advice and consent of the senate, as follows:

- 13 (1) one member who is a representative of the
14 residential construction industry of this state;
- 15 (2) one member who is a licensed electrical
16 contractor;
- 17 (3) one member who is a licensed mechanical
18 contractor;
- 19 (4) one member who is a licensed and
20 practicing architect;
- 21 (5) one member who is a practicing general
22 contractor;
- 23 (6) one member who is a representative of the
24 liquefied petroleum gas industry;
- 25 (7) one member who is a resident of the state,

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1 who is not a licensed contractor or certified journeyman and
2 who shall represent the people of New Mexico;

3 (8) one member who is a representative of the
4 subcontracting industry of the state; and

5 (9) one member who is a representative of
6 organized labor.

7 Members shall be appointed to provide adequate
8 representation of all geographic areas of the state.

9 B. Each member of the commission shall receive per
10 diem and mileage as provided in the Per Diem and Mileage Act
11 and shall receive no other compensation, perquisite or
12 allowance.

13 C. The commission shall annually elect a [~~chairman~~]
14 chair and vice [~~chairman~~] chair from its membership. The
15 director shall serve as the executive secretary of the
16 commission.

17 D. The commission shall meet bimonthly or at the
18 call of the [~~chairman~~] chair.

19 E. The commission shall [~~establish policy for the~~
20 ~~division. It shall~~]:

21 (1) advise the division on, [~~review,~~
22 ~~coordinate and approve or disapprove~~] all rules, regulations,
23 standards, codes and licensing requirements [~~which~~] that are
24 subject to the approval of the [~~commission~~] division under the
25 provisions of the Construction Industries Licensing Act or the

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1 LPG and CNG Act so as to insure that uniform codes and
2 standards are promulgated and conflicting provisions are
3 avoided; [~~The commission shall:~~

4 ~~(1)~~] (2) revoke or suspend, for cause, any
5 license or certificate of qualification issued under the
6 provisions of the Construction Industries Licensing Act or the
7 LPG and CNG Act; and

8 ~~(2)~~] (3) define and establish all license
9 classifications. The licensee shall be limited in [~~his~~]
10 bidding and contracting as provided in Subsection B of Section
11 60-13-12 NMSA 1978. [~~Any~~] A licensee, subsequent to the
12 issuance of a license, may make application for additional
13 classification and be licensed in more than one classification
14 if [~~he~~] the licensee meets the prescribed qualification for the
15 additional classification."

16 SECTION 10. Section 60-13-9 NMSA 1978 (being Laws 1978,
17 Chapter 73, Section 1, as amended) is amended to read:

18 "60-13-9. DIVISION--DUTIES.--The division shall:

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

24 B. issue, under the director's signature,
25 contractor's licenses and certificates of qualification in

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1 accordance with the provisions of the Construction Industries
2 Licensing Act;

3 C. submit a list of all contractor's licenses and
4 certificates of qualification issued by the division to the
5 commission for review and approval;

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

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

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

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

25 H. approve, disapprove or revise the recommended

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1 budget of each trade bureau and submit the budgets of those
2 bureaus, along with its own budget, to the regulation and
3 licensing department;

4 I. approve, disapprove or revise and submit to the
5 regulation and licensing department all requests of the trade
6 bureaus for emergency budget transfers;

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

15 K. adopt [~~subject to commission approval~~] rules and
16 regulations necessary to carry out the provisions of the
17 Construction Industries Licensing Act and the LPG and CNG Act;

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

23 M. furnish, upon payment of a reasonable fee
24 established by the division, a certified copy of any license
25 issued or of the record of the official revocation or

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1 suspension thereof. Such certified copy shall be prima facie
2 evidence of the facts stated therein; and

3 N. publish a list of contractors, with their
4 addresses and classifications, licensed by the division. The
5 list shall be furnished without charge to such public
6 officials, public bodies or public works and building
7 departments as the division deems advisable. The list shall be
8 published annually, and supplements shall be provided as the
9 division deems necessary. Copies of the list and supplements
10 shall be furnished to any person upon request and payment of a
11 reasonable fee established by the division."

12 SECTION 11. Section 60-13-10.2 NMSA 1978 (being Laws
13 2007, Chapter 38, Section 6) is amended to read:

14 "60-13-10.2. DIVISION ~~[AND COMMISSION]~~--STANDARDS TO
15 ACCOMMODATE SOLAR COLLECTORS.--As provided in the Solar
16 Collector Standards Act, the division ~~[and commission]~~ shall
17 jointly with the energy, minerals and natural resources
18 department promulgate rules, standards or codes that establish
19 requirements for new construction that will accommodate the
20 installation of solar collectors to or on the new construction
21 after the construction is otherwise complete."

22 SECTION 12. Section 60-13-13 NMSA 1978 (being Laws 1967,
23 Chapter 199, Section 16, as amended) is amended to read:

24 "60-13-13. APPLICATION FOR CONTRACTOR'S LICENSE.--
25 A. Applications for a contractor's license or a

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1 certificate of qualification shall be submitted to the division
2 on forms prescribed and furnished by the division and shall
3 contain the information and be accompanied by the attachments
4 required by regulation [~~of the commission~~].

5 B. The application shall be accompanied by the
6 prescribed fee."

7 SECTION 13. Section 60-13-14 NMSA 1978 (being Laws 1967,
8 Chapter 199, Section 17, as amended) is amended to read:

9 "60-13-14. DIVISION--LICENSE ISSUANCE--REPORTS.--

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

16 B. An applicant for a license shall:

17 (1) demonstrate proof of responsibility as
18 provided in the Construction Industries Licensing Act;

19 (2) comply with the provisions of Subsection D
20 of this section if [~~he~~] the applicant has engaged illegally in
21 the contracting business in New Mexico within one year prior to
22 making application;

23 (3) demonstrate familiarity with the rules and
24 regulations promulgated by the [~~commission and~~] division
25 concerning the classification for which application is made;

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1 (4) if a corporation, incorporated
2 association, registered limited liability partnership or
3 limited liability company, have complied with the laws of this
4 state requiring qualification to do business in New Mexico and
5 provide the name of its current registered agent and the
6 current address of its registered office in New Mexico;

7 (5) if a person other than the persons
8 described in Paragraph (4) of this subsection, provide a
9 current physical location address and mailing address of the
10 applicant's place of business;

11 (6) submit proof of registration with the
12 taxation and revenue department and submit a current
13 identification tax number;

14 (7) comply with any additional procedures,
15 rules and regulations [~~which~~] that are established by the
16 [~~commission~~] division relating to issuance of licenses; and

17 (8) have had four years, within the ten years
18 immediately prior to application, of practical or related trade
19 experience dealing specifically with the type of construction
20 or its equivalent for which the applicant is applying for a
21 license, except that the [~~commission~~] division may [~~by~~
22 ~~regulation~~] provide for:

23 (a) reducing this requirement for a
24 particular industry or craft where it is deemed excessive, but
25 the requirement shall not be less than two years; and

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1 (b) a waiver of the work experience
2 requirement of this paragraph when the qualifying party has
3 been certified in New Mexico with the same license
4 classification within the ten years immediately prior to
5 application.

6 C. The division [~~with the consent of the~~
7 ~~commission~~] may enter into a reciprocal licensing agreement
8 with any state having equivalent licensing requirements.

9 D. The director may issue a license to an applicant
10 who at any time within one year prior to making application has
11 acted as a contractor in New Mexico without a license as
12 required by the Construction Industries Licensing Act if:

13 (1) the applicant in addition to all other
14 requirements for licensure pays an additional fee as follows:

15 (a) in an amount up to ten percent of
16 the contract price or the value of the nonlicensed contracted
17 work in the discretion of the [~~commission~~] director; or

18 (b) if the applicant has bid or offered
19 a price on a construction project and was not the successful
20 bidder or offeror, the fee shall be at least one percent but
21 not more than five percent of the total bid amount; and

22 (2) the director is satisfied that no incident
23 of such contracting without a license:

24 (a) caused monetary damage to any
25 person; or

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1 (b) resulted in an unresolved consumer
2 complaint being filed against the applicant with the division.

3 E. An unlicensed contractor who has performed
4 unlicensed work may settle the claims against ~~him~~ the
5 unlicensed contractor without becoming licensed if the claims
6 arise from ~~his~~ a first offense and ~~he~~ the unlicensed
7 contractor pays an administrative fee calculated pursuant to
8 Paragraph (1) of Subsection D of this section. In addition to
9 the administrative fee, an additional ten percent of the amount
10 of the administrative fee shall be assessed as a service fee.

11 F. If the total fee to be paid by the contractor
12 pursuant to the provisions of Subsection D or E of this section
13 is twenty-five dollars (\$25.00) or less, the fee may be waived.

14 G. The director shall report every incident of
15 nonlicensed contracting work to the taxation and revenue
16 department to assure that the contractor complies with tax
17 requirements and pays all taxes due."

18 SECTION 14. Section 60-13-15 NMSA 1978 (being Laws 1977,
19 Chapter 245, Section 177, as amended) is amended to read:

20 "60-13-15. LICENSE ISSUANCE--COMMISSION REVIEW.--

21 A. The commission shall review at its regular
22 meetings all licenses issued by the division. The commission
23 shall report to the superintendent of regulation and licensing
24 and the attorney general any license issued to an applicant who
25 fails to meet the requirements established by law and

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1 ~~[commission]~~ division regulations for license issuance.

2 B. The signing of a license by the director for
3 issuance by the division to an applicant who fails to meet the
4 requirements established by law or ~~[committee]~~ division
5 regulations for issuance of licenses is a misdemeanor, and the
6 director, if convicted by a court of law, shall be relieved of
7 ~~[his]~~ the director's duties and shall be subject to civil
8 damages as provided in Section 30-23-7 NMSA 1978. Failure by
9 the ~~[committee]~~ commission or ~~[any]~~ a member of the ~~[committee]~~
10 commission to report the illegal issuance of a license is a
11 petty misdemeanor and upon conviction shall result in
12 termination of the appointment of the ~~[committee]~~ commission
13 member so convicted."

14 SECTION 15. Section 60-13-18 NMSA 1978 (being Laws 1967,
15 Chapter 199, Section 20, as amended) is amended to read:

16 "60-13-18. LICENSES--RENEWAL.--

17 A. Licenses issued by the division are not
18 transferable.

19 B. Contractor's licenses shall expire two years
20 after the issuance date or as determined by the division, but
21 in no instance less than one year, and shall be renewable upon
22 application to the division and payment of the prescribed
23 renewal fee; provided that nothing in this subsection shall
24 prohibit the division from establishing a staggered system of
25 license expiration and a procedure for proration of fees for

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1 licenses issued for less than the two-year period or other
2 period provided by the division pursuant to this subsection.

3 C. Licenses shall expire upon the date established
4 by regulation of the [~~commission~~] division, such regulation to
5 provide for a staggered system of license expiration and for
6 proration of fees for licenses issued for less than a full
7 year. Thereafter, such licenses shall be issued for a period
8 of two years or as otherwise provided by the division pursuant
9 to Subsection B of this section. Licenses shall be subject to
10 renewal upon application to the division and payment of the
11 prescribed renewal fee.

12 D. Licensees and journeyman certificate holders may
13 be required to complete and submit proof of continuing
14 education as a prerequisite for renewal of a license. When
15 required by rule adopted by the division, an applicant for a
16 license renewal must submit with the application for license
17 renewal proof of eight hours of instruction in code change and
18 eight hours of instruction in other industry-related and
19 division-approved subjects. The sixteen hours of continuing
20 education must have been completed within the three years prior
21 to the date of the license renewal application.

22 E. The director shall, at least thirty days prior
23 to the expiration date of a license, notify the licensee of the
24 approaching expiration. Notice shall be given by mail
25 addressed to the licensee's last address on file with the

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1 division. The notice shall include a renewal application form,
2 instructions and any other information prescribed by the
3 division.

4 F. Failure of a licensee to make application for the
5 renewal of the licensee's license, to furnish such other
6 information required by the commission and to pay the
7 prescribed renewal fee by the last working day prior to the
8 expiration of the license shall cause the license to be
9 suspended by operation of law.

10 G. Unless the license is renewed within a
11 three-month period, it shall be canceled. The suspended
12 license may be renewed only after payment of a fee equal to one
13 dollar (\$1.00) for each day, up to thirty days, that has
14 elapsed since the expiration date of the license and thereafter
15 for a fee equal to twice the amount of the renewal fee."

16 SECTION 16. Section 60-13-27 NMSA 1978 (being Laws 1967,
17 Chapter 199, Section 30, as amended) is amended to read:

18 "60-13-27. COMPLAINTS AGAINST LICENSEES AND CERTIFICATE
19 HOLDERS--INVESTIGATIONS BY DIVISION--INFORMAL RESOLUTION--
20 NOTICE OF REVOCATION ACTION.--

21 A. The division on its own motion or upon the
22 verified complaint in writing of any person shall investigate
23 the actions of any licensee or certificate holder. The
24 director may assign one or more inspectors certified pursuant
25 to Section 60-13-41 NMSA 1978, investigators or other personnel

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1 to investigate that licensee or certificate holder or any
2 activity within the jurisdiction of the Construction Industries
3 Licensing Act. The director may authorize an inspector or
4 investigator to enter any code jurisdiction to make
5 investigations. The investigation shall be for the purpose of
6 determining if there has been a code violation or other breach
7 of Section 60-13-23, 60-13-24 or 60-13-36 NMSA 1978 on the part
8 of a licensee or certificate holder constituting probable
9 grounds for revocation or suspension of [~~his~~] the license or
10 certificate.

11 B. The person assigned by the director shall make
12 an immediate investigation, securing all pertinent facts and
13 statements, including a statement from the contractor if [~~he~~]
14 the contractor is available, and names and addresses of
15 witnesses. Within one hundred eighty days of receipt of the
16 complaint by the division, [~~he~~] the person assigned shall make
17 a full and complete written report to the director.

18 C. Complaints may be resolved informally at the
19 request of the complainant, the contractor or the commission.
20 For informal resolution of a complaint, all parties [~~must~~]
21 shall agree to the informal hearing and agree that the decision
22 of the informal hearing officer is final. The procedures for
23 informal hearings and resolution of complaints shall be
24 established by the [~~commission~~] division.

25 D. All revocation and suspension proceedings

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1 conducted by the commission and judicial review of the
2 commission's decision shall be governed by the provisions of
3 the Uniform Licensing Act. Prior to ~~[any]~~ a revocation action
4 by the commission, notice of the pending action shall be given
5 to the bonding company ~~[which]~~ that has in effect for the
6 licensee ~~[any]~~ a bond issued pursuant to the proof of
7 responsibility provisions of the Construction Industries
8 Licensing Act."

9 SECTION 17. Section 60-13-33 NMSA 1978 (being Laws 1967,
10 Chapter 199, Section 36, as amended) is amended to read:

11 "60-13-33. TRADE BUREAUS--GENERAL DUTIES AND POWERS.--The
12 trade bureaus shall:

13 A. cooperate in administering examinations for the
14 licensing and certification of the occupations or trades
15 assigned to their jurisdictions pursuant to the Construction
16 Industries Licensing Act and provide those examinations and any
17 related materials in both English and Spanish;

18 B. perform inspections of all occupations, trades
19 and activities within their jurisdictions;

20 C. be responsible for all administrative duties and
21 other duties necessary and incidental thereto required in the
22 Construction Industries Licensing Act, including those
23 activities and duties assigned to them by the director; and

24 D. recommend rules and regulations and submit them
25 to the division for approval ~~[by the commission]~~ and

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1 promulgation [~~by the division~~]."

2 SECTION 18. Section 60-13-38 NMSA 1978 (being Laws 1967,
3 Chapter 199, Section 41, as amended) is amended to read:

4 "60-13-38. CERTIFICATES OF COMPETENCE--EXAMINATION--
5 JOURNEYMEN.--

6 A. A person shall not engage in the occupation or
7 trade of journeyman unless [~~he~~] the person holds a certificate
8 of competence issued by the division for the occupation or
9 trade in which [~~he~~] the person desires to engage.

10 B. The categories for certificates of competence
11 are: journeyman electrician, journeyman plumber, journeyman
12 gas fitter, journeyman pipe fitter, journeyman sheet metal
13 worker, journeyman boiler operator, residential wireman and
14 journeyman welder working on pipelines, collection lines or
15 compressor stations.

16 C. An applicant for a certificate of competence
17 shall be required to take an examination approved and adopted
18 by the division as to [~~his~~] knowledge of the orders and rules
19 governing the occupation or trade for which a certificate is
20 sought, and as to [~~his~~] technical knowledge and ability
21 pertaining to [~~his~~] the particular trade. The examination may
22 be oral, written or demonstrative or any combination thereof,
23 as required by rules of the [~~commission~~] division.

24 D. The division shall issue a certificate of
25 competence to [~~any~~] a journeyman welder working on pipelines,

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1 collection lines or compressor stations who shows evidence of
2 having satisfactorily completed an examination administered by
3 an independent testing organization or public utility employing
4 engineers registered with the state, such examination meeting
5 the minimum pipeline safety standards set by the public
6 regulation commission.

7 E. Applications for certificates of competence
8 shall be in the form and shall contain such information and
9 attachments as the division prescribes.

10 F. The division shall establish a reasonable fee
11 for [~~any~~] an examination or issuance of certificate of
12 competence.

13 G. A person is not eligible to take an examination
14 for a certificate of competence unless [~~he~~] the person has had
15 two years' experience in the occupation or trade for which a
16 certificate of competence is sought, or the equivalent thereof
17 as determined by the [~~commission~~] division, or has successfully
18 completed a course in the trade approved by the instructional
19 support and vocational education division of the [~~state~~
20 ~~department of~~] public education department.

21 H. Employment of an apprentice working under the
22 direct supervision of a certified journeyman is not prohibited
23 by the Construction Industries Licensing Act.

24 I. A person is eligible to take an examination for
25 a journeyman electrician certificate of competence after at

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1 least:

2 (1) four years of accredited training in the
3 electrical trade;

4 (2) four years of apprenticeship in the
5 electrical trade;

6 (3) four years of practical experience in the
7 electrical trade, of which two years are in the commercial
8 trade, industrial trade or the equivalent as determined by the
9 commission; or

10 (4) successfully completing an electrical
11 trade program approved by the instructional support and
12 vocational education division of the [~~state department of~~]
13 public education department and two years of practical
14 experience in the commercial electrical trade.

15 J. Continuing education requirements for a
16 journeyman electrician shall include at least sixteen hours of
17 continuing education in every three-year period between
18 national electrical code updates, of which eight hours are code
19 change instructions and eight hours are other industry-related
20 instruction. All continuing education curricula and
21 instructors shall be approved by the commission based on
22 recommendations by the electrical bureau.

23 K. A certificate of competence shall not be renewed
24 until a complete application for renewal has been received by
25 the division. Proof of completion of the continuing education

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1 requirements shall be submitted to the division with the
2 application for renewal of certificate of competence. An
3 application for renewal that is not accompanied by proof of
4 completion of the continuing education requirements is
5 incomplete and shall not be processed. The continuing
6 education requirements in this subsection shall only apply to a
7 journeyman electrician with the designation "EE-98J" or "JE98".
8 This does not apply to EE98.

9 L. A person is eligible to take an examination for
10 a residential wireman's certificate of competence after at
11 least:

- 12 (1) two years of accredited training or
13 apprenticeship in the electrical trade;
- 14 (2) two years of practical experience in
15 wiring residential dwellings; or
- 16 (3) successfully completing a course in the
17 trade approved by the instructional support and vocational
18 education division of the [~~state department of~~] public
19 education department and one year of practical experience in
20 wiring residential dwellings.

21 M. The provisions of Subsections I and L of this
22 section do not apply to a person who was enrolled as a full-
23 time student before June 20, 2003 in an electrical trade
24 program approved by the instructional support and vocational
25 education division of the [~~state department of~~] public

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1 education department."

2 SECTION 19. Section 60-13-44 NMSA 1978 (being Laws 1967,
3 Chapter 199, Section 52, as amended) is amended to read:

4 "60-13-44. TRADE BUREAUS--STANDARDS--CONFLICTS.--

5 A. The electrical bureau shall recommend to the
6 [~~commission~~] division minimum standards for the installation or
7 use of electrical wiring. The recommendations shall
8 substantially embody the applicable provisions of an electrical
9 code for safety to life and property promulgated by a
10 nationally recognized association and developed through an
11 open, balanced consensus process.

12 B. The mechanical bureau shall recommend to the
13 [~~commission~~] division minimum standards for the installation of
14 all fixtures, consumers' gas pipe, appliances and materials
15 installed in the course of a mechanical installation. The
16 recommendations shall be in substantial conformity with codes
17 and standards that are developed through an open, balanced
18 consensus process. Manufacturers may choose the independent
19 certification organization they wish to certify their products
20 if the certification organization is accredited by the American
21 national standards institute or other accreditation
22 organization selected by the [~~commission~~] division.

23 C. The general construction bureau shall recommend
24 to the [~~commission~~] division minimum standards for the
25 construction, alteration or repair of buildings, except for

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1 those activities within the jurisdiction of the electrical
2 bureau or the mechanical bureau. The recommendations shall
3 substantially embody the applicable provisions of a nationally
4 recognized building code that is developed through an open,
5 balanced consensus process and shall give due regard to
6 physical, climatic and other conditions peculiar to New Mexico.
7 The standards shall include the authority to permit or deny
8 occupancy of existing and new buildings or structures and
9 authority to accept or deny the use of materials manufactured
10 within or without the state. The general construction bureau
11 may set minimum fees or charges for conducting tests to verify
12 claims or specifications of manufacturers.

13 D. The general construction bureau shall recommend
14 to the [~~commission~~] division additional specifications for any
15 public building constructed in the state through expenditure of
16 state, county or municipal funds, bonds and other revenues,
17 which specifications shall embody standards making the building
18 accessible to persons who have a physical disability, and the
19 specifications shall conform substantially with those contained
20 in a nationally recognized standard for making public
21 facilities accessible to persons with a physical disability
22 that is developed through an open, balanced consensus process.
23 All orders and rules recommended by the general construction
24 bureau and adopted by the [~~commission~~] division under the
25 provisions of this section shall be printed and distributed to

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1 all licensed contractors, architects and engineers and to the
2 governor's commission on disability. The orders and rules
3 shall take effect on a date fixed by the [~~commission~~] division,
4 which shall not be less than thirty days after their adoption
5 by the [~~commission~~] division and shall have the force of law.

6 E. The general construction bureau shall have the
7 right of review of all specifications of public buildings and
8 the responsibility to ensure compliance with the adopted
9 standards.

10 F. All political subdivisions of the state are
11 subject to the provisions of codes adopted and approved under
12 the Construction Industries Licensing Act. Such codes
13 constitute a minimum requirement for the codes of political
14 subdivisions.

15 G. The trade bureaus within their respective
16 jurisdictions shall recommend to the [~~commission~~] division
17 standards that are developed through an open, balanced
18 consensus process for the installation or use of electrical
19 wiring, the installation of all fixtures, consumers' gas pipe,
20 appliances and materials installed in the course of mechanical
21 installation and the construction, alteration or repair of all
22 buildings intended for use by persons with a physical
23 disability or persons requiring special facilities to
24 accommodate the aged. The recommendations shall give due
25 regard to physical, climatic and other conditions peculiar to

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1 New Mexico.

2 H. The trade bureaus within their respective
3 jurisdictions shall recommend to the [~~commission~~] division
4 standards for the construction, alteration, repair, use or
5 occupancy of manufactured commercial units, modular homes and
6 premanufactured homes. The recommendations shall substantially
7 embody the applicable provisions or standards for the safety to
8 life, health, welfare and property approved by the nationally
9 recognized standards association and developed through an open,
10 balanced consensus process and shall give due regard to
11 physical, climatic and other conditions peculiar to New Mexico.
12 Wherever existing state codes or standards conflict with the
13 codes and standards adopted by the [~~commission~~] division under
14 the provisions of this subsection, the provisions of the
15 applicable New Mexico building codes adopted pursuant to the
16 Construction Industries Licensing Act and the LPG and CNG Act
17 in effect at the applicable time shall exclusively apply and
18 control, except for codes and standards for mobile housing
19 units.

20 I. Modular homes and premanufactured homes in
21 existence at the time of the effective date of the Construction
22 Industries Licensing Act shall have their use or occupancy
23 continued if such use or occupancy was legal on the effective
24 date of that act; provided that such continued use or occupancy
25 is not dangerous to life. Any change in the use or occupancy

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1 or any major alteration or repair of a modular home or
2 premanufactured home shall comply with all codes and standards
3 adopted under the Construction Industries Licensing Act.

4 J. The [~~commission~~] division shall review all
5 recommendations made under the provisions of this section and
6 shall by rule adopt standards and codes that substantially
7 comply with the requirements of this section that apply to the
8 recommendations of the trade bureaus."

9 SECTION 20. Section 60-13-45 NMSA 1978 (being Laws 1967,
10 Chapter 199, Section 53, as amended) is amended to read:

11 "60-13-45. TRADE BUREAUS--PERMITS.--

12 A. The trade bureaus within their respective
13 jurisdictions may require a permit to be secured and
14 conspicuously posted prior to any construction, installation,
15 alteration, repair or addition to or within any building,
16 structure or premises.

17 B. No permit shall be required for the performance
18 of any of the following classes of work:

19 (1) minor repairs, replacement of lamps, the
20 connection of portable electrical equipment to suitable
21 receptacles [~~which~~] that are permanently installed, minor
22 repairs or replacement of or to faucets, taps or jets or
23 connection of portable equipment to suitable connections or
24 inlets [~~which~~] that have been permanently installed;

25 (2) installation of temporary wiring for

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1 testing electrical equipment or apparatus or installation of
2 temporary fixtures or devices for testing fixtures, equipment,
3 apparatus or appliances;

4 (3) installation, alteration or repair of
5 electrical equipment for the operation of signals or the
6 transmission of intelligence by wire; ~~and~~ or

7 (4) installation or work ~~which~~ that is done
8 after regular business hours or during a holiday when immediate
9 action is imperative to safeguard life, health or property;
10 provided that the person making the installation or performing
11 the work applies for a permit covering the installation or work
12 not later than the next business day.

13 C. If a permit has been issued for construction of
14 a new residential building, that residential building shall not
15 be occupied until a certificate of occupancy has been issued
16 certifying compliance with all codes and standards.

17 D. The ~~commission~~ division shall make rules and
18 regulations pertaining to the issuance of permits and the
19 setting of reasonable fees to be paid by the applicant for a
20 permit. The regulations shall provide a procedure for the
21 issuance of permits outside the corporate limits of a
22 municipality where inspection is made by a state inspector or a
23 municipal inspector serving as a part-time state inspector and
24 for inspections within a municipality where the inspection is
25 done exclusively by a full-time state inspector. Each trade

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1 bureau by regulation may require a reasonable bond or surety in
2 the penal sum of five hundred dollars (\$500) or more, but not
3 to exceed [~~fifteen hundred dollars~~] one thousand five hundred
4 dollars (\$1,500), with such bureau named as obligee and
5 conditioned for the payment of inspection fees provided in the
6 Construction Industries Licensing Act. Nothing in this section
7 shall preclude municipalities from making inspections in
8 accordance with the Construction Industries Licensing Act or
9 rules and regulations pursuant to that act or from establishing
10 a schedule of fees to be paid by an applicant for a permit.

11 E. In the event that the division assumes
12 inspections of a municipal or county jurisdiction, the permit
13 fees shall be paid directly to the division."

14 SECTION 21. Section 60-14-4 NMSA 1978 (being Laws 1978,
15 Chapter 80, Section 1, as amended) is amended to read:

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

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

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

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

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

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

2 H. prepare a uniform manufacturer's warranty and
3 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]~~ adopt
7 by regulation the mobile home construction and safety standards
8 contained in the National Mobile Home Construction and Safety
9 Standards Act of 1974, 42 U.S.C. 5401 et seq., as amended;

10 J. ~~[subject to the approval of the committee]~~ adopt
11 by regulation the mobile home procedural and enforcement
12 regulations, 24 C.F.R. 3282, as amended, promulgated by the
13 department of housing and urban development pursuant to the
14 National Mobile Home Construction and Safety Standards Act of
15 1974, 42 U.S.C. 5401 et seq., as amended;

16 K. issue permits and provide for a single
17 inspection of every installation in New Mexico, regardless of
18 the location;

19 L. ~~[subject to the approval of the committee]~~ adopt
20 regulations prescribing standards for the installation or use
21 of electrical wiring; the installation of all fixtures,
22 plumbing, ~~[consumer's]~~ consumers' gas pipe, including natural
23 gas, liquefied petroleum gas and synthetic natural gas,
24 appliances and materials installed in the course of mechanical
25 installation; and the construction, alteration, installation

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1 and repair of all manufactured homes intended for use in flood
2 or mudslide areas designated pursuant to Section 3-18-7 NMSA
3 1978. The regulations shall give due regard to standards
4 prescribed by the federal insurance and mitigation
5 administration pursuant to regulation 1910, Subsection 7(d), 79
6 Stat. 670, Section 1361, 82 Stat. 587 and 82 Stat. 5757, all as
7 amended, and shall give due regard to physical, climatic and
8 other conditions peculiar to New Mexico;

9 M. conduct "inspector schools" so that each
10 inspector under the division's jurisdiction is capable of
11 giving a complete one-time inspection for the sufficiency of
12 unit installation, construction and mechanical and electrical
13 systems;

14 N. enter into cooperative agreements with federal
15 agencies relating to manufactured housing and accept and use
16 federal grants, matching funds or other financial assistance to
17 further the purposes of the Manufactured Housing Act. The
18 division may enter into agreements with municipalities and
19 counties to provide for the inspection of manufactured homes by
20 employees of municipalities and counties, to be performed under
21 the supervision and control of the division. The division may
22 allow all or a portion of the inspection fee collected by a
23 local public body to be retained by the local public body. The
24 portion of the fee retained shall be determined by the division
25 and shall be related to the completeness of the inspection

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1 performed;

2 O. administer oaths through any member of the
3 division, the director or a hearing officer;

4 P. ~~[subject to the approval of the committee]~~ adopt
5 rules and regulations for the conducting of hearings and the
6 presentation of views, consistent with the regulations
7 promulgated by the department of housing and urban development,
8 24 C.F.R. 3282.151 through 3282.156, as amended;

9 Q. ~~[subject to the approval of the committee]~~ adopt
10 by regulation a requirement that dealers, repairmen and
11 installers provide to consumers warranties on their product and
12 work and prescribe by regulation minimum requirements of such
13 warranties;

14 R. coordinate with and qualify inspectors for any
15 multiple inspection program provided by the construction
16 industries division of the regulation and licensing department
17 for inspection of manufactured homes;

18 S. ~~[subject to the approval of the committee]~~ adopt
19 regulations, codes and standards for manufactured homes used
20 for nonresidential purposes; provided that such manufactured
21 homes being used for nonresidential purposes on May 18, 1988
22 shall not be required to meet Uniform Building Code standards,
23 except as to requirements for access to the handicapped, but
24 manufactured homes being used for nonresidential purposes after
25 May 18, 1988 shall be required to meet Uniform Building Code

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1 standards. None of the provisions contained in this subsection
2 shall apply to retailers licensed by the motor vehicle division
3 of the taxation and revenue department; and

4 T. with the approval of the superintendent of
5 regulation and licensing, employ such personnel as the director
6 deems necessary for the exclusive purposes of investigating
7 violations of the Manufactured Housing Act, enforcing Section
8 60-14-17 NMSA 1978 and instituting legal action in the name of
9 the division to enforce the provisions of Section 60-14-19 NMSA
10 1978."

11 SECTION 22. Section 60-14-5 NMSA 1978 (being Laws 1977,
12 Chapter 245, Section 220, as amended) is amended to read:

13 "60-14-5. MANUFACTURED HOUSING COMMITTEE CREATED--
14 MEMBERSHIP--COMPENSATION--DUTIES.--

15 A. There is created within the division the
16 "manufactured housing committee". It shall be composed of
17 seven members who are residents of New Mexico and who shall
18 serve at the pleasure of the governor and be appointed by [~~him~~]
19 the governor as follows:

20 (1) one member who is or is the designated
21 representative of a manufacturer licensed under the
22 Manufactured Housing Act;

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

25 (3) one member who is or is the qualifying

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1 party of an installer licensed under the Manufactured Housing
2 Act;

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

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

8 The term of office of each member of the committee is four
9 years; provided that members shall be appointed for staggered
10 terms beginning July 1, 1983 so that two terms end on June 30,
11 1985, two terms end on June 30, 1986 and three terms end on
12 June 30, 1987. Thereafter, all members shall be appointed to
13 four-year terms. Members shall be appointed to provide
14 adequate representation of all geographic areas of the state.

15 B. Each member of the committee shall receive per
16 diem and mileage as provided in the Per Diem and Mileage Act
17 and shall receive no other compensation, perquisite or
18 allowance.

19 C. The committee shall annually elect a [~~chairman~~]
20 chair and vice [~~chairman~~] chair from its membership. The
21 director of the division shall serve as the executive secretary
22 of the committee.

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

25 E. The committee shall provide technical and policy

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1 advice to the division [~~review and approve or disapprove all~~
2 ~~rules, regulations, standards and codes subject to its approval~~
3 ~~under the provisions of the Manufactured Housing Act and:~~

4 (1) ~~establish by regulation classifications of~~
5 ~~licenses issued by the division and qualifications and~~
6 ~~examinations necessary for licensure under the Manufactured~~
7 ~~Housing Act; and~~

8 (2)] and suspend or revoke for cause any
9 license or certificate of qualification issued by the
10 division."

11 SECTION 23. Section 60-14-6 NMSA 1978 (being Laws 1978,
12 Chapter 81, Section 1, as amended) is amended to read:

13 "60-14-6. BONDING REQUIREMENTS--DEALERS, BROKERS,
14 SALESPERSONS, MANUFACTURERS, REPAIRMEN AND INSTALLERS.--

15 A. The division [~~with the approval of the~~
16 ~~committee~~] may by regulation require each dealer, broker,
17 salesperson, manufacturer, repairman and installer to furnish
18 and maintain with the division a consumer protection bond
19 underwritten by a corporate surety authorized to transact
20 business in New Mexico, in a sum to be determined by regulation
21 and in such form, and with either unit or blanket coverage, as
22 required by regulation, to be conditioned upon the dealer,
23 broker, salesperson, manufacturer, repairman or installer
24 complying with the provisions of the Manufactured Housing Act
25 and any other law applying to the licensee, and also as

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1 indemnity for any loss sustained by any person damaged:

2 (1) as a result of a violation by the licensee
3 of any provision of the Manufactured Housing Act or of any
4 regulation of the division adopted pursuant to that act;

5 (2) as a result of a violation of any
6 regulation adopted by the division;

7 (3) by fraud of a licensee in the execution or
8 performance of a contract; or

9 (4) by misrepresentation or the making of
10 false promises through the advertising or the agents of a
11 licensee.

12 B. The consumer protection bond may include
13 provisions for the indemnification for any loss sustained by
14 any consumer as the result of the refusal, failure or inability
15 to transfer good and sufficient legal title to the consumer by
16 the transferor or any other party claiming title.

17 C. The committee may attach and disburse for cause
18 any consumer protection bond furnished to the division pursuant
19 to this section. The division [~~subject to the approval of the~~
20 ~~committee~~] shall adopt the necessary rules and regulations to
21 administer the provisions of this section."

22 SECTION 24. Section 60-14-7 NMSA 1978 (being Laws 1975,
23 Chapter 331, Section 8, as amended) is amended to read:

24 "60-14-7. LICENSE REQUIRED--CLASSIFICATION--
25 EXAMINATION.--

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1 A. No person shall engage in business as a
2 manufacturer, dealer, broker, repairman, installer or
3 salesperson unless licensed as provided in the Manufactured
4 Housing Act.

5 B. The [~~committee~~] division shall adopt regulations
6 creating a system of license classifications covering the
7 occupations of dealer, broker, manufacturer, repairman,
8 installer and salesperson and providing for the qualifications
9 and examination for each class of license.

10 C. No person shall import for sale or exchange, or
11 engage in the business of selling, leasing or exchanging or
12 offering for sale, lease or exchange, any manufactured home
13 manufactured by any person who is not licensed as a
14 manufacturer under the Manufactured Housing Act."

15 **SECTION 25.** Section 60-14-8 NMSA 1978 (being Laws 1977,
16 Chapter 6, Section 1, as amended) is amended to read:

17 "60-14-8. LICENSURE--EXEMPTION.--The provisions of
18 Section 60-14-7 NMSA 1978 shall not apply to:

19 A. licensed real estate brokers or [~~salesmen~~]
20 salespersons acting as agents for another person in the sale of
21 real property on which is located one or more manufactured
22 homes whose installation has been approved as provided in
23 regulations of the [~~committee~~] division; or

24 B. technicians working on weatherization projects
25 that do not exceed a cost of three thousand five hundred

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1 dollars (\$3,500) and that are administered by a state or
2 federal agency."

3 SECTION 26. Section 60-14-9 NMSA 1978 (being Laws 1975,
4 Chapter 331, Section 9, as amended) is amended to read:

5 "60-14-9. LICENSE--APPLICATION--ISSUANCE.--

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

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

21 C. An applicant for licensure shall:

22 (1) demonstrate financial responsibility as
23 required by regulations of the [~~committee~~] division;

24 (2) be of good reputation;

25 (3) not have engaged illegally in the licensed

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1 classification that ~~[he]~~ the applicant is applying for within
2 one year prior to making the application;

3 (4) demonstrate familiarity with the rules and
4 regulations adopted by the ~~[committee]~~ division concerning the
5 classification for which application is made;

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

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

14 (7) submit proof of registration with the
15 revenue processing division of the taxation and revenue
16 department and submit a current tax identification number; and

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

21 SECTION 27. Section 60-14-10 NMSA 1978 (being Laws 1975,
22 Chapter 331, Section 10, as amended) is amended to read:

23 "60-14-10. QUALIFYING PARTY--EXAMINATION--CERTIFICATE.--

24 A. Except as provided in Subsection C of this
25 section, no certificate of qualification shall be issued to

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1 [any] an individual desiring to be a qualifying party until
2 [he] the individual has passed with a satisfactory score an
3 examination prepared, administered and graded by the division.

4 B. The examination where applicable shall consist
5 of:

6 (1) general business knowledge, the rules and
7 regulations of the division [~~and committee~~] and the provisions
8 of the Manufactured Housing Act;

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

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

17 C. If a licensee is subject to suspension by the
18 committee for failure of the licensee to have a qualifying
19 party in [~~his~~] the licensee's employ, and the employment of the
20 qualifying party is terminated without fault of the licensee,
21 then an employee of the licensee who is experienced in the
22 classification for which the certificate of qualification was
23 issued and who has been employed two or more years by the
24 licensee shall be issued without examination a temporary
25 certificate of qualification in the classification for which

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1 the licensee is licensed. The temporary qualifying party shall
2 be subject to passing the examination as set forth in this
3 section within one year from the date of the temporary
4 certificate's issuance.

5 D. A certificate of qualification is not
6 transferable."

7 SECTION 28. Section 60-14-12 NMSA 1978 (being Laws 1975,
8 Chapter 331, Section 12, as amended) is amended to read:

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

14 A. if a licensee or a qualifying party of a
15 licensee violates any provision of the Manufactured Housing Act
16 or any regulations adopted by the division [~~or committee~~]
17 pursuant to that act;

18 B. false, misleading or deceptive advertising;

19 C. knowingly contracting or performing a service
20 beyond the scope of the license;

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

23 E. misrepresentation or omission of a material fact
24 in any manufactured home transaction;

25 F. failure to comply with the warranty requirements

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1 of the Manufactured Housing Act or any regulation of the
2 [~~committee~~] division pursuant to those requirements;

3 G. failure by a manufacturer or dealer to transfer
4 good and sufficient title to the purchaser of a manufactured
5 home;

6 H. failure by a broker or dealer to provide the
7 buyer and the seller of a pre-owned manufactured home with a
8 closing statement as required by regulation of the [~~committee~~]
9 division;

10 I. conviction of a licensee or a qualifying party
11 of a licensee in any court of competent jurisdiction of a
12 felony or any offense involving moral turpitude; or

13 J. failure by a dealer or broker in the transfer of
14 a pre-owned manufactured home not owned at the time of the
15 transaction by the dealer or broker to comply with title
16 transfer provisions set forth by regulation of the division.

17 SECTION 29. Section 60-14-19 NMSA 1978 (being Laws 1983,
18 Chapter 295, Section 24, as amended) is amended to read:

19 "60-14-19. PENALTIES.--

20 A. Any person who knowingly and willfully violates
21 a provision of the Manufactured Housing Act or any rule,
22 regulation or administrative order of the [~~committee~~ or]
23 division in a manner that threatens the health or safety of any
24 purchaser or consumer is guilty of a misdemeanor and on
25 conviction shall be fined not more than one thousand dollars

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1 (\$1,000) or shall be confined in the county jail not longer
2 than one year or both.

3 B. In any action brought to enforce any provision
4 of the Manufactured Housing Act, the division, upon petition to
5 the court, may recover on behalf of the state a civil penalty
6 not to exceed one thousand dollars (\$1,000) for each violation,
7 except that the maximum civil penalty may not exceed one
8 million dollars (\$1,000,000) for any related series of
9 violations occurring within one year from the date of the first
10 violation.

11 C. Failure by a manufacturer or dealer to comply
12 with the warranty provisions of the Manufactured Housing Act or
13 any implied warranties or the violation of any provision of the
14 Manufactured Housing Act by any person is an unfair or
15 deceptive trade practice in addition to those practices defined
16 in the Unfair Practices Act and is actionable pursuant to the
17 Unfair Practices Act. As such, the venue provisions and all
18 remedies available in the Unfair Practices Act apply to and are
19 in addition to the remedies in the Manufactured Housing Act.

20 D. The director may issue a license to an applicant
21 who at any time within one year prior to making an application
22 has acted as an unlicensed dealer, broker, salesperson,
23 repairman, manufacturer or installer in New Mexico without a
24 license as required by the division if:

25 (1) the applicant in addition to all other

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1 requirements for licensure pays an additional fee as follows:

2 (a) in an amount up to ten percent of
3 the contract price or the value of the unlicensed work in the
4 discretion of the committee; or

5 (b) if the applicant has bid or offered
6 a price on a project and was not the successful bidder or
7 offeror, the fee shall be at least one percent but not more
8 than five percent of the total bid amount in the discretion of
9 the committee; and

10 (2) the director is satisfied that no incident
11 of unlicensed work:

12 (a) caused monetary damage to any
13 person; or

14 (b) resulted in an unresolved consumer
15 complaint being filed against the applicant.

16 E. Any unlicensed person who has performed
17 unlicensed work may settle the claims against that unlicensed
18 person without becoming licensed if the administrative claims
19 arise from that person's first offense and that person pays an
20 administrative fee calculated pursuant to Paragraph (1) of
21 Subsection D of this section. In addition to the
22 administrative fee, an additional ten percent of the amount of
23 the administrative fee shall be assessed as a service fee.

24 F. If the total fee to be paid by the unlicensed
25 person pursuant to the provisions of Subsection D or E of

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1 this section is twenty-five dollars (\$25.00) or less, the fee
2 may be waived by the director."

3 SECTION 30. Section 70-5-3 NMSA 1978 (being Laws 1947,
4 Chapter 214, Section 2, as amended) is amended to read:

5 "70-5-3. RULES AND REGULATIONS FOR DESIGN,
6 CONSTRUCTION, ASSEMBLING, EQUIPPING AND INSTALLING OF
7 CONTAINERS AND EQUIPMENT.--All containers and pertinent
8 equipment used or to be used in this state for CNG equipment
9 when attached to motor vehicles or for the storage,
10 transporting or dispensing of LP gases or CNG by industrial,
11 commercial or domestic users, together with appliances used
12 or to be used in this state with LP gases as fuel, shall be
13 designed, constructed, assembled, equipped and installed as
14 specified by the rules and regulations of the [~~commission~~]
15 division, adopted and promulgated as provided in the LPG and
16 CNG Act."

17 SECTION 31. Section 70-5-4 NMSA 1978 (being Laws 1947,
18 Chapter 214, Section 3, as amended) is amended to read:

19 "70-5-4. ACTS CONCERNING LP GAS OR CNG SUBJECT TO
20 COMMISSION RULES AND REGULATIONS.--The selling, offering for
21 sale, constructing, assembling, repairing, equipping,
22 installing, filling with fuel, storage of fuel within,
23 dispensing of fuel from or transporting fuel within
24 containers described in Section 70-5-3 NMSA 1978 without the
25 containers having been designed, constructed, assembled,

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1 equipped, maintained, tested and inspected as specified by
2 the rules and regulations of the [~~commission~~] division
3 pursuant to the LPG and CNG Act shall be a violation of the
4 LPG and CNG Act and shall be subject to the fines, penalties
5 and restrictions provided."

6 SECTION 32. Section 70-5-5 NMSA 1978 (being Laws 1947,
7 Chapter 214, Section 4, as amended) is amended to read:

8 "70-5-5. POWER TO ADOPT AND PROMULGATE RULES AND
9 REGULATIONS--EXCEPTIONS TO ACT.--

10 A. The [~~commission~~] division may adopt and
11 promulgate rules and regulations as are necessary to carry
12 out the purpose of the LPG and CNG Act and for the public
13 peace, health and safety as affected by the use of such
14 materials. The regulations made shall substantially conform
15 with the standards as published by the national fire
16 protection association covering the same subject matter.
17 Nothing contained in this section is intended to alter the
18 specifications for manufacturing or testing of containers
19 established by the [~~interstate commerce commission~~] surface
20 transportation board or the [~~U.S.~~] United States department
21 of transportation or of containers installed in refineries,
22 gas processing plants, underground storage terminals, natural
23 gas distributing plants and pipeline terminals.

24 B. The bureau may adopt a schedule of reasonable
25 fees to be charged for furnishing any printed matter or

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1 forms, for filing or recording any data sheets, blueprints,
2 drawings, plans, specifications, reports and any other
3 instrument or document and for making and furnishing copies
4 of any record, report, regulation, rule, law or any other
5 matter on file with the bureau."

6 SECTION 33. Section 70-5-6 NMSA 1978 (being Laws 1947,
7 Chapter 214, Section 5, as amended) is amended to read:

8 "70-5-6. LICENSE--EXCEPTIONS.--

9 A. No person, firm or corporation shall engage in
10 this state in the manufacturing, assembling, repairing,
11 selling or installing of containers or appliances or of
12 equipment for CNG attached or to be attached to motor
13 vehicles to be used with LP gases as a fuel, nor shall any
14 person, firm or corporation engage in the manufacture, sale,
15 transportation, dispensing or storage of LP gases within this
16 state, except where stored by the ultimate consumer for
17 consumption only, without having first obtained from the
18 bureau a license to do so for each main and branch office or
19 business operated within the state pursuant to the LPG and
20 CNG Act. No license shall be issued until the bureau has
21 determined that the applicant meets all safety requirements
22 provided for in that act and required by the rules and
23 regulations of the [~~commission~~] division and the bureau finds
24 that the applicant is fit and able to perform the work for
25 which a license is requested; provided that household

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1 appliances and any other appliance, container or equipment
2 being fed from a reservoir less than five pounds shall not be
3 subject to the LPG and CNG Act; and provided further that
4 retail sale of LP gas appliances, including factory installed
5 LP gas appliances and equipment on campers, mobile homes and
6 recreational vehicles, shall be exempt from this section.

7 B. When LP gas or CNG is to be the source of
8 fuel, the installation of piping, appliances and equipment
9 shall be made by installers qualified by the bureau.
10 Property-owner installed systems, when certified by qualified
11 installers or inspectors of the bureau, are exempt from the
12 provisions of this subsection."

13 SECTION 34. Section 70-5-11 NMSA 1978 (being Laws 1973,
14 Chapter 362, Section 11, as amended) is amended to read:

15 "70-5-11. PROOF OF RESPONSIBILITY.--

16 A. The bureau shall require each licensee to have
17 combined single limit public liability insurance of a
18 reasonable amount determined by the [~~commission~~] division.
19 Such coverage shall be filed on a certificate to be
20 prescribed by the [~~commission~~] division, and the coverage
21 shall be effective until canceled by either the carrier or
22 the licensee. The provisions of this subsection do not apply
23 to manufacturers of LP gas.

24 B. The licensee may file as an alternative to
25 insurance described in Subsection A of this section a

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1 corporate surety bond of a reasonable amount determined by
2 the [~~commission~~] division.

3 C. The insurance or the surety bond shall be
4 purchased from a company licensed to do business in New
5 Mexico.

6 D. The certificate of insurance or the surety
7 bond filed with the bureau shall continue to be effective
8 until thirty days after the date the bureau is notified in
9 writing of the cancellation of the insurance or surety bond."

10 SECTION 35. Section 70-5-12 NMSA 1978 (being Laws 1947,
11 Chapter 214, Section 12, as amended) is amended to read:

12 "70-5-12. POWER OF BUREAU AND COMMISSION TO REFUSE TO
13 GRANT, SUSPEND OR CANCEL A LICENSE.--The bureau may refuse to
14 grant a license to any applicant and may request the
15 commission to suspend or cancel the license of any licensee
16 if it appears to the bureau upon hearing, as provided in the
17 LPG and CNG Act, that an applicant or licensee has violated
18 or failed to comply with any provision of law relating to LP
19 gas or CNG or with any rule, regulation or order of the
20 division, bureau or commission or that any licensee has
21 demonstrated that [~~he~~] the licensee is incompetent or lacks
22 knowledge in matters relevant to a license to such an extent
23 that, in the judgment of the bureau, it would endanger the
24 public safety to allow the licensee to continue to engage in
25 LP gas or CNG activities or operations."

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1 SECTION 36. Section 70-5-13 NMSA 1978 (being Laws 1947,
2 Chapter 214, Section 13, as amended) is amended to read:

3 "70-5-13. PROVISIONS FOR HEARINGS.--Upon receipt of
4 written complaint from one of its representatives or by any
5 person or party affected, the bureau may, if it finds
6 probable cause for such complaint, request the commission to
7 hold a hearing to consider the complaint under the provisions
8 of the LPG and CNG Act and under such rules and regulations
9 not inconsistent with that act. If at the hearing the
10 commission finds that the licensee has violated or failed to
11 comply with any of the provisions of the LPG and CNG Act or
12 the rules and regulations of the bureau or [~~commission then~~]
13 division, the commission may revoke or suspend the license of
14 the licensee. The bureau may investigate on its own motion
15 any matters pertaining to the subject of the LPG and CNG Act
16 and may hold such hearings as it deems necessary. The bureau
17 may also summon and compel the attendance of witnesses,
18 require the production of any records or documents deemed by
19 it to be pertinent to the subject matter of any investigation
20 and provide for the taking of depositions of witnesses under
21 such rules as it may prescribe."

22 SECTION 37. Section 70-5-18 NMSA 1978 (being Laws 1947,
23 Chapter 214, Section 18, as amended) is amended to read:

24 "70-5-18. CIVIL PENALTY FOR FAILURE TO COMPLY WITH ACT
25 OR ANY ORDER, RULE OR REGULATION.--The failure of any person,

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1 firm or corporation or any association engaged in any LP gas
2 or CNG activity or operation requiring a license by the
3 bureau to comply, within forty-eight hours after the receipt
4 of any certified order of the bureau or commission requiring
5 compliance, with the laws relating to LP gases or CNG or any
6 order, rule or regulation of the bureau or [~~commission~~]
7 division shall subject the person or the officers of the
8 corporation to a civil penalty of one hundred dollars (\$100)
9 for each day the violation continues, and the attorney
10 general may institute civil actions in the district court of
11 the county in which the violation occurs to recover penalties
12 in the name and on behalf of the state."

13 SECTION 38. Section 70-5-20 NMSA 1978 (being Laws 1947,
14 Chapter 214, Section 21, as amended) is amended to read:

15 "70-5-20. ENFORCEMENT.--The bureau may enforce the laws
16 relating to LP gases and CNG and any rules, regulations or
17 orders adopted by it or the [~~commission~~] division pursuant to
18 those laws by injunction in the district courts, which remedy
19 shall be in addition to the civil and criminal penalties
20 provided in the LPG and CNG Act. The chief [~~and~~] of the
21 inspectors of the bureau or the bureau may issue citations
22 for violation of the LPG and CNG Act."

23 SECTION 39. Section 70-5-21 NMSA 1978 (being Laws 1947,
24 Chapter 214, Section 22, as amended) is amended to read:

25 "70-5-21. MISDEMEANOR.--Any person violating any

underscored material = new
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1 provision of the LPG and CNG Act or the rules, regulations or
2 orders of the bureau or the [~~commission~~] division issued
3 pursuant to that act is guilty of a misdemeanor and shall be
4 punished by a fine levied in a magistrate court of not less
5 than fifty dollars (\$50.00) or more than five hundred dollars
6 (\$500) or by imprisonment for not more than ninety days or
7 both."

8 SECTION 40. Section 71-6-7.1 NMSA 1978 (being Laws
9 2007, Chapter 38, Section 5) is amended to read:

10 "71-6-7.1. CONSTRUCTION STANDARDS TO ACCOMMODATE SOLAR
11 COLLECTORS--RULEMAKING.--The department and the construction
12 industries division of the regulation and licensing
13 department [~~and the construction industries commission~~] shall
14 jointly promulgate rules, standards or codes that establish
15 requirements for new construction that will accommodate the
16 installation of solar collectors to or on the new
17 construction after that construction is otherwise complete,
18 including roof orientation, roof strength, location of
19 obstructions to sunlight, access to installation locations,
20 built-in conduit, wiring and piping and brackets for
21 attaching solar collectors."

22 SECTION 41. TEMPORARY PROVISION--RULEMAKING AUTHORITY
23 OF THE CONSTRUCTION INDUSTRIES COMMISSION AND THE
24 MANUFACTURED HOUSING COMMITTEE.--Beginning July 1, 2011, the
25 regulation and licensing department shall assume the

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1 rulemaking authority of the construction industries
2 commission and the manufactured housing committee. All rules
3 of the construction industries commission and the
4 manufactured housing committee shall remain in force unless
5 the regulation and licensing department repeals or amends
6 them.

7 SECTION 42. TEMPORARY PROVISION--DUTIES OF THE NEW
8 MEXICO ATHLETIC COMMISSION AND THE MEDICAL ADVISORY BOARD.--

9 Beginning July 1, 2011, the regulation and licensing
10 department shall assume the duties of the New Mexico athletic
11 commission and the medical advisory board. All rules of the
12 New Mexico athletic commission and the medical advisory board
13 shall remain in force unless the regulation and licensing
14 department repeals or amends them.

15 SECTION 43. TEMPORARY PROVISION--TRANSFER OF
16 CONTRACTUAL OBLIGATIONS--REFERENCES IN LAW.--

17 A. On July 1, 2011, contractual obligations of
18 the New Mexico athletic commission and the medical advisory
19 board are binding on the regulation and licensing department.

20 B. On July 1, 2011, all references in law to the
21 New Mexico athletic commission and the medical advisory board
22 shall be deemed to be references to the regulation and
23 licensing department.

24 C. On July 1, 2011, all references in law to the
25 executive secretary of the New Mexico athletic commission or

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

1 the chairman of the athletic commission shall be deemed to be
2 references to the superintendent of regulation and licensing
3 or the superintendent's designee.

4 SECTION 44. REPEAL.--Sections 60-2A-3 and 60-2A-6 NMSA
5 1978 (being Laws 1980, Chapter 90, Sections 3 and 6, as
6 amended) are repealed.

7 SECTION 45. EFFECTIVE DATE.--The effective date of the
8 provisions of this act is July 1, 2011.

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