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SENATE BILL 167

**54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

INTRODUCED BY

Michael Padilla

AN ACT

RELATING TO CONSTRUCTION INDUSTRIES; AMENDING THE DEFINITION OF  
"CONTRACTOR" IN THE CONSTRUCTION INDUSTRIES LICENSING ACT;  
ESTABLISHING A FEE.

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

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

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

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

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

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

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1 provisions of the Construction Industries Licensing Act;

2 B. includes subcontractor and specialty contractor;

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

11 D. does not include:

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

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

25 (3) a public utility or rural electric

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

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

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

19 (6) a ~~[telephone or telegraph]~~  
20 telecommunications company or rural electric cooperative, or a  
21 person working on behalf of a telecommunications company who  
22 works on a communications system serving a residential property  
23 from the first connection point proceeding to or inside the  
24 residential property, that installs, alters or repairs  
25 electrical equipment and devices for the operation of signals

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1 or the transmission of intelligence where that work is an  
2 integral part of the operation of a communication system owned  
3 and operated by a [~~telephone or telegraph~~] telecommunications  
4 company or rural electric cooperative in rendering authorized  
5 service;

6 (7) a pipeline company that installs, alters  
7 or repairs electrical equipment and devices for the operation  
8 of signals or the transmission of intelligence where that  
9 service is an integral part of the operation of the  
10 communication system of that pipeline company and is not for  
11 hire or for the use of the general public, or [~~any~~] a pipeline  
12 company [~~which~~] that installs, alters or repairs plumbing  
13 fixtures or gas piping where the work is an integral part of  
14 installing and operating the system owned or operated by the  
15 pipeline company in rendering its authorized service;

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

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1 (9) a radio or television broadcaster who  
2 installs, alters or repairs electrical equipment used for radio  
3 or television broadcasting;

4 (10) an individual who, [~~by himself~~] alone or  
5 with the aid of others who are paid wages and who receive no  
6 other form of compensation, builds or makes installations,  
7 alterations or repairs in or to a single-family dwelling owned  
8 and occupied or to be occupied by [~~him~~] the individual;  
9 provided that the installation, building, alteration or repair  
10 is required to be done in conformity with all other provisions  
11 of the Construction Industries Licensing Act and with the  
12 orders, rules, [~~regulations~~] standards and codes adopted  
13 pursuant to that act;

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

25 (12) a person who, [~~by himself~~] alone or with

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1 the aid of others who are paid wages and receive no other form  
2 of compensation, builds or makes installations, repairs or  
3 alterations in or to a building or other improvement on a farm  
4 or ranch owned, occupied or operated by [~~him~~] the person, or  
5 makes installations of electrical wiring that are not to be  
6 connected to electrical energy supplied from a power source  
7 outside the premises of the farm or ranch owned, occupied or  
8 operated by [~~him~~] the person; provided that the state codes and  
9 [~~any~~] local codes adopted pursuant to Subsection F of Section  
10 60-13-44 NMSA 1978 shall not require [~~any~~] permits or  
11 inspections for such construction on a farm or ranch except for  
12 electrical wiring to be connected to a power source outside the  
13 premises;

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

15 (14) an individual who works on one  
16 undertaking or project at a time that, in the aggregate or  
17 singly, does not exceed seven thousand two hundred dollars  
18 (\$7,200) compensation a year, the work being casual, minor or  
19 inconsequential, such as handyman repairs; provided that this  
20 exemption shall not apply to [~~any~~] an undertaking or a project  
21 pertaining to the installation, connection or repair of  
22 electrical wiring, plumbing or gas fitting as defined in  
23 Section 60-13-32 NMSA 1978 and provided that:

24 (a) the work is not part of a larger or  
25 major operation undertaken by the same individual or different

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1 contractor;

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

6 (c) the individual pays a fee of one  
7 hundred dollars (\$100) and files annually with the division, on  
8 a form prescribed by the division, a declaration substantially  
9 to the effect that [~~he~~] the individual is not a contractor  
10 within the meaning of the Construction Industries Licensing  
11 Act, that the work [~~he~~] the individual performs is casual,  
12 minor or inconsequential and will not include more than one  
13 undertaking or project at one time and that the total amount of  
14 such contracts, in the aggregate or singly, will not exceed  
15 seven thousand two hundred dollars (\$7,200) compensation a  
16 year;

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

21 (16) a cable television or community antenna  
22 television company that constructs, installs, alters or repairs  
23 facilities, equipment, cables or lines for the provision of  
24 television service or the carriage and transmission of  
25 television or radio broadcast signals;

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

4 (18) a person who performs work consisting of  
5 short-term depreciable improvements to commercial property to  
6 provide needed repairs and maintenance for items not covered by  
7 building codes adopted by the construction ~~[industry]~~  
8 industries commission if the total amount paid the person for  
9 the work on a single undertaking, including materials, services  
10 and wages of those who work for ~~[him]~~ the person, does not  
11 exceed the sum of five thousand dollars (\$5,000)."

12 SECTION 2. EFFECTIVE DATE.--The effective date of the  
13 provisions of this act is July 1, 2020.