

1 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR
2 SENATE BILL 164

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10 45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

11 AN ACT

12 RELATING TO REAL ESTATE LICENSES; CHANGING CERTAIN PROVISIONS
13 FOR LICENSING, FEES AND MISCONDUCT OF BROKERS.

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

15 Section 1. Section 61-29-1 NMSA 1978 (being Laws 1959,
16 Chapter 226, Section 1, as amended) is amended to read:

17 "61-29-1. PROHIBITION. -- It is unlawful for [~~any person,~~
18 ~~business association or corporation~~] a person to engage in the
19 business, act in the capacity of, advertise or display in any
20 manner or otherwise assume to engage in the business of, or act
21 as, a [~~real estate~~] broker or real estate [~~salesman~~]
22 salesperson within this state without a license issued by the
23 [~~New Mexico real estate~~] commission. A person who engages in
24 the business or acts in the capacity of a broker or real estate
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1 salesperson in this state, with or without a New Mexico
2 license, has thereby submitted to the jurisdiction of the state
3 and to the administrative jurisdiction of the commission and is
4 subject to all penalties and remedies available for a violation
5 of any provision of Chapter 61, Article 29 NMSA 1978."

6 Section 2. Section 61-29-5 NMSA 1978 (being Laws 1959,
7 Chapter 226, Section 4) is amended to read:

8 "61-29-5. ORGANIZATION OF COMMISSION. --The commission
9 shall organize by electing a president, vice president and
10 secretary from its members. A majority of the commission shall
11 constitute a quorum and may exercise all powers and duties
12 devolving upon it and do all things necessary to carry into
13 effect the provisions of [~~this act~~] Chapter 61, Article 29 NMSA
14 1978. The secretary of the commission shall keep a record of
15 its proceedings [~~a register of persons licensed as real estate~~
16 ~~brokers and as real estate salesmen, showing the name, place of~~
17 ~~business of each and the date and number of his or her~~
18 ~~certificate, and a record of all licenses or certificates~~
19 ~~issued, refused, removed, suspended or revoked. This record~~
20 ~~shall be open to public inspection at all reasonable times]. "~~

21 Section 3. Section 61-29-8 NMSA 1978 (being Laws 1959,
22 Chapter 226, Section 7, as amended) is amended to read:

23 "61-29-8. LICENSE FEES-- DISPOSITION. --

24 A. The following fees shall be established and
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1 charged by the commission and paid into the real estate
 2 commission fund:

3 (1) for each examination, a fee [~~of sixty~~
 4 ~~dollars (\$60.00)] not to exceed ninety-five dollars (\$95.00);~~

5 (2) for each broker's license issued, a fee
 6 [~~of~~] not to exceed one hundred eighty dollars (\$180) and for
 7 each renewal thereof, a fee [~~of~~] not to exceed one hundred
 8 eighty dollars (\$180);

9 (3) for each salesperson's license issued, a
 10 fee [~~of~~] not to exceed one hundred eighty dollars (\$180) and
 11 for each renewal thereof, a fee [~~of~~] not to exceed one hundred
 12 eighty dollars (\$180);

13 (4) subject to the provisions of Paragraph
 14 [~~(11)~~] (10) of this subsection, for each change of place of
 15 business or change of employer or contractual associate, a fee
 16 [~~of~~] not to exceed twenty dollars (\$20.00);

17 (5) for each duplicate license, where the
 18 license is lost or destroyed and affidavit is made thereof, a
 19 fee [~~of~~] not to exceed twenty dollars (\$20.00);

20 (6) for each license history, a fee [~~of~~] not
 21 to exceed twenty-five dollars (\$25.00);

22 (7) for copying of documents by the
 23 commission, a fee [~~set by the commission~~] not to exceed one
 24 dollar (\$1.00) per copy;

underscored material = new
 [bracketed material] = delete

1 (8) for each [~~additional~~] license law and
2 rules and regulations booklet, a fee [~~set by the commission~~]
3 not to exceed ten dollars (\$10.00) per booklet;

4 (9) for each [~~additional directory~~] hard copy
5 or electronic list of licensed real estate brokers and
6 salespersons, a fee [~~set by the commission~~] not to exceed
7 twenty dollars (\$20.00); and

8 [~~(10) for each supplement to the directory of~~
9 ~~licensed real estate brokers and salespersons, a fee set by the~~
10 ~~commission not to exceed twenty dollars (\$20.00); and~~

11 ~~(11)]~~ (10) when a license must be reissued for
12 a salesperson because of change of address of the broker's
13 office, death of the licensed broker when a successor licensed
14 broker is replacing the decedent and the salesperson remains in
15 the office or because of a change of name of the office or the
16 entity of the licensed broker, the licensed broker or successor
17 licensed broker as the case may be shall pay to the commission
18 as the affected salesperson's license reissue fee an amount not
19 to exceed twenty dollars (\$20.00); but if there are eleven or
20 more affected salespersons in the licensed broker's office, the
21 total fee paid to effect reissuance of all of those licenses
22 shall not exceed two hundred dollars (\$200).

23 B. All fees set by the commission shall be set by
24 rule [~~or regulation~~] and only after all requirements have been
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1 met as prescribed by Chapter 61, Article 29 NMSA 1978. Any
 2 changes or amendments to the rules [~~and regulations~~] shall be
 3 filed in accordance with the provisions of the State Rules Act.

4 C. The commission shall deposit all money received
 5 by it from fees in accordance with the provisions of Chapter
 6 61, Article 29 NMSA 1978 with the state treasurer, who shall
 7 keep that money in a separate fund to be known as the "real
 8 estate commission fund", and money so deposited in that fund is
 9 appropriated for the purpose of carrying out the provisions of
 10 Chapter 61, Article 29 NMSA 1978 or to maintain the real estate
 11 recovery fund as required by the Real Estate Recovery Fund Act
 12 and shall be paid out of the fund upon the vouchers of the
 13 [~~president and secretary~~] executive secretary of the commission
 14 or his designee; provided that the total fees and charges
 15 collected and paid into the state treasury and any money so
 16 deposited shall be expended only for the purposes authorized by
 17 Chapter 61, Article 29 NMSA 1978.

18 D. The commission shall by [~~regulation~~] rule
 19 provide for a proportionate refund of the license issuance fee
 20 or the license renewal fee if the license is issued or renewed
 21 for a period of [~~two or~~] three years pursuant to Section 61-29-
 22 11 NMSA 1978 and is terminated with more than one year
 23 remaining. "

24 Section 4. Section 61-29-9 NMSA 1978 (being Laws 1959,
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1 Chapter 226, Section 8, as amended) is amended to read:

2 "61-29-9. QUALIFICATIONS FOR LICENSE. --

3 A. Licenses shall be granted only to persons who
4 are deemed by the commission to be of good repute and competent
5 to transact the business of a real estate broker or salesperson
6 in a manner that safeguards the interests of the public.

7 B. [~~Each~~] An applicant for a broker's license shall
8 be a legal resident of the United States, have reached the age
9 of majority and, except as provided in Section 61-29-14 NMSA
10 1978, be a resident of New Mexico. Each applicant for a [~~real~~
11 ~~estate~~] broker's license shall have passed the real estate
12 examination approved by the commission and shall:

13 (1) have performed actively as a real estate
14 salesperson for at least twenty-four months out of the
15 preceding thirty-six months immediately prior to filing
16 application and furnish the commission a certificate that he
17 has completed successfully [~~ninety classroom hours of~~
18 ~~instruction in basic real estate courses~~] a broker basics
19 course approved by the commission;

20 (2) furnish the commission a certificate that
21 he has completed successfully one hundred eighty classroom
22 hours of instruction in basic real estate courses approved by
23 the commission;

24 (3) furnish the commission a certificate that
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1 he is a duly licensed real estate broker in good standing in
 2 another state, providing he has completed successfully ninety
 3 classroom hours of instruction in basic real estate courses
 4 approved by the commission, thirty hours of which shall have
 5 been a broker basics course; or

6 (4) furnish the commission satisfactory proof
 7 of his equivalent experience in an activity closely related to
 8 or associated with real estate and furnish the commission a
 9 certificate that he has completed successfully ninety classroom
 10 hours of instruction in basic real estate courses approved by
 11 the commission, thirty hours of which shall have been a broker
 12 basics course.

13 C. Each applicant for a salesperson's license shall
 14 be a legal resident of the United States, have reached the age
 15 of majority, have passed the real estate examination approved
 16 by the commission and [~~shall~~] furnish the commission a
 17 certificate that he has completed successfully sixty classroom
 18 hours of instruction in basic real estate courses approved by
 19 the commission.

20 D. The commission shall require the information [~~as~~
 21 ~~it may deem~~] it deems necessary from every applicant to
 22 determine his honesty, trustworthiness and competency.
 23 Corporations, partnerships or associations [~~shall be entitled~~
 24 ~~to~~] may hold a broker's license issued in the name of the
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1 corporation, partnership or association, provided at least one
2 member of the partnership or association or one officer or
3 employee of a corporation who actively engages in the real
4 estate business first secures a broker's license. The license
5 shall be issued in the name of the corporation, partnership or
6 association, naming the partner, associate, officer or employee
7 as qualifying broker for the corporation, partnership or
8 association. "

9 Section 5. Section 61-29-10 NMSA 1978 (being Laws 1959,
10 Chapter 226, Section 9, as amended) is amended to read:

11 "61-29-10. APPLICATION FOR LICENSE AND EXAMINATION. --

12 A. All applications for licenses to act as real
13 estate brokers and real estate salesmen shall be made in
14 writing to the [~~New Mexico real estate~~] commission and shall
15 contain such data and information as may be required upon a
16 form to be prescribed and furnished by the commission. [~~Such~~
17 ~~applications~~] The application shall be accompanied by:

18 (1) the recommendation of two reputable
19 citizens who own real estate in the county in which the
20 applicant resides [~~or has his place of business~~], which
21 recommendation shall certify that the applicant is of good
22 moral character, honest and trustworthy; and

23 (2) the [~~annual~~] triennial license fee
24 prescribed by the commission [~~which shall not be refunded in~~

1 ~~any event~~].

2 B. In addition to proof of honesty, trustworthiness
 3 and good reputation, ~~[each]~~ an applicant shall pass
 4 satisfactorily a written examination ~~[prepared by or under the~~
 5 ~~supervision of]~~ approved by the commission. The examination
 6 shall be given at ~~[such]~~ the time and ~~[such]~~ places within the
 7 state as the commission shall prescribe; however, the
 8 examination ~~[for brokers]~~ shall be given not less than two
 9 times during each calendar year ~~[and the examination for~~
 10 ~~salesmen shall be given not less than six times during each~~
 11 ~~calendar year]~~. The examination ~~[for a broker's license]~~ shall
 12 include business ethics, writing, composition, arithmetic,
 13 elementary principles of land economics and appraisals, a
 14 general knowledge of the statutes of this state relating to
 15 deeds, mortgages, contracts of sale, agency and brokerage and
 16 the provisions of ~~[Sections 61-29-1 through 61-29-18 NMSA 1978.]~~
 17 ~~The examination for a broker's license shall be of a more~~
 18 ~~exacting nature and scope and more stringent than the~~
 19 ~~examination for a salesman's license]~~ Chapter 61, Article 29
 20 NMSA 1978.

21 C. No applicant is permitted to engage in the real
 22 estate business ~~[either as a broker or salesman]~~ until he has
 23 satisfactorily passed the approved examination, complied with
 24 the other requirements of ~~[Sections 61-29-1 through 61-29-18]~~

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1 Chapter 61, Article 29 NMSA 1978, and until a license has been
2 issued to him.

3 D. Notice of passing or failing to pass the
4 examination shall be given by the commission to ~~[each]~~ an
5 applicant not later than three weeks following the date of the
6 examination.

7 E. The commission may establish educational
8 programs and procure qualified personnel, facilities and
9 materials for the instruction of persons desiring to become
10 ~~[real-estate]~~ brokers or salesmen or desiring to improve their
11 proficiency as ~~[real-estate]~~ brokers or salesmen. The
12 commission may inspect and accredit educational programs and
13 courses of study and may establish standards of accreditation
14 for educational programs conducted in this state. The expenses
15 incurred by the commission in activities ~~[enabled under the~~
16 ~~provisions of]~~ authorized pursuant to this subsection shall not
17 exceed the total revenues received and accumulated by the
18 commission. "

19 Section 6. Section 61-29-10.3 NMSA 1978 (being Laws 1999,
20 Chapter 127, Section 4) is amended to read:

21 "61-29-10.3. BROKERAGE NONAGENCY RELATIONSHIPS
22 ~~[CREATION]~~. --

23 ~~[A. For all regulated real estate transactions~~
24 ~~first executed on or before January 1, 2000, a buyer, seller,~~

1 ~~landlord or tenant using real estate services without entering~~
 2 ~~into an express written agreement will be a customer of the~~
 3 ~~brokerage providing the real estate services, and no agency~~
 4 ~~relationship or agency duties will be imposed.~~

5 ~~B.]~~ A. For all regulated real estate transactions,
 6 ~~[first executed on or after January 1, 2000]~~ a buyer, seller,
 7 landlord or tenant may enter into an express written agreement
 8 to become a client of a brokerage, without creating an agency
 9 relationship, and no agency duties will be imposed.

10 ~~C.]~~ B. The commission shall promulgate rules
 11 governing the rights and responsibilities of clients and
 12 customers and the rights, responsibilities and duties of the
 13 brokerage in a nonagency relationship. All licensees will
 14 perform the duties of licensees as prescribed by the
 15 commission. "

16 Section 7. Section 61-29-11 NMSA 1978 (being Laws 1959,
 17 Chapter 226, Section 10, as amended) is amended to read:

18 "61-29-11. ISSUANCE, RENEWAL AND SURRENDER OF
 19 LICENSES. --

20 A. The commission shall issue to each qualified
 21 applicant a ~~[permanent]~~ license in ~~[such]~~ the form and size ~~[as~~
 22 ~~shall be]~~ prescribed by the commission.

23 B. ~~[This]~~ The license shall show the name and
 24 address of the licensee. ~~[and, in the case of a real estate~~

underscored material = new
 [bracketed material] = delete

1 ~~salesperson's~~] A real estate salesperson's license shall show
2 the name of the ~~[real-estate]~~ broker by whom he is engaged.
3 The license of ~~[each]~~ the real estate salesperson shall be
4 delivered or mailed to the ~~[real-estate]~~ broker by whom ~~[such]~~
5 the real estate salesperson is engaged and shall be kept in the
6 custody and control of that broker.

7 C. Every license shall be renewed every three years
8 on or before the last day of the month following the licensee's
9 month of birth. ~~[The]~~ Upon written request for renewal by the
10 licensee, the commission shall certify renewal of ~~[each]~~ a
11 license ~~[in the absence of any]~~ if there is no reason or
12 condition that might warrant the refusal of the renewal of a
13 license ~~[upon written request for renewal by the licensee]~~.
14 The licensee shall provide proof of compliance with continuing
15 education requirements and ~~[receipt of]~~ pay the renewal fee.
16 ~~[In the event any]~~ If a licensee has not made application for
17 renewal of license, furnished proof of compliance with
18 continuing education requirements and paid the renewal fee by
19 ~~[his]~~ the license renewal date, the license shall expire. The
20 commission may ~~[in its discretion]~~ require ~~[the]~~ a person whose
21 license has expired to apply for a license as if he had not
22 been previously licensed under Chapter 61, Article 29 NMSA 1978
23 and further require that he be reexamined. The commission
24 shall require ~~[the]~~ a person whose license has expired to pay
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1 when he applies for a license, in addition to any other fee, a
 2 late fee of one hundred dollars (\$100). If during a period of
 3 one year from the date the license expires the person or his
 4 spouse is either absent from this state on active duty military
 5 service or the person is suffering from an illness or injury of
 6 such severity that the person is physically or mentally
 7 incapable of making application for a license, payment of the
 8 late fee and reexamination shall not be required by the
 9 commission if, within three months of the person's permanent
 10 return to this state or sufficient recovery from illness or
 11 injury to allow the person to make an application, the person
 12 makes application to the commission for a license. A copy of
 13 that ~~[person]~~ person's or his spouse's military orders or a
 14 certificate from the applicant's physician shall accompany the
 15 application. ~~[Any]~~ A person excused by reason of active duty
 16 military service, illness or injury as provided for in this
 17 subsection may make application for a license without
 18 imposition of the late fee. All fees collected pursuant to
 19 this subsection shall be disposed of in accordance with the
 20 provisions of Section 61-29-8 NMSA 1978. The revocation of a
 21 broker's license ~~[shall]~~ automatically ~~[suspend]~~ suspends every
 22 real estate salesperson's license granted to any person by
 23 virtue of ~~[his]~~ association with the broker whose license has
 24 been revoked, pending a change of broker ~~[and the issuance of a~~
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1 ~~new license. Such new license shall be issued].~~ Upon the
2 naming of a new broker, the suspended license will be
3 reactivated without charge if granted during the ~~[same year in~~
4 ~~which the license was granted]~~ three-year renewal cycle.

5 D. Each resident licensed broker shall maintain a
6 fixed office within this state, which shall be so located as to
7 conform with local regulations. Every office operated by a
8 licensed broker ~~[under Chapter 61, Article 29 NMSA 1978]~~ shall
9 have a licensed broker in charge who is a natural person. The
10 license of the broker and ~~[the license of]~~ each salesperson
11 associated with ~~[or under contract to]~~ that broker shall be
12 prominently displayed in the office. The address of the office
13 shall be designated in the broker's license, and no license
14 issued shall authorize the licensee to transact real estate
15 business at any other address ~~[except a licensed branch~~
16 ~~office].~~ In case of removal from the designated address, the
17 licensee shall make application to the commission before ~~[such]~~
18 the removal or within ten days thereafter, designating the new
19 location of his office and paying the required fee, whereupon
20 the commission shall issue a license for the new location if
21 the new location complies with the terms of Chapter 61, Article
22 29 NMSA 1978. ~~[Each]~~ A licensed broker shall maintain a sign
23 on his office of such size and content as the commission
24 prescribes. In making application for a license or for a
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underscoring material = new
[bracketed material] = delete

1 change of address, the licensee shall verify that his office
2 conforms with local regulations.

3 E. When ~~[any]~~ a real estate salesperson is
4 discharged or terminates his association or employment with
5 ~~[the real estate]~~ broker with whom he is associated, it is the
6 duty of that ~~[real estate]~~ broker to ~~[immediately]~~ deliver or
7 mail to the commission that real estate salesperson's license
8 within forty-eight hours. The commission shall hold the
9 license on inactive status. It is unlawful for ~~[any]~~ a real
10 estate salesperson to perform any of the acts ~~[contemplated]~~
11 authorized by Chapter 61, Article 29 NMSA 1978 either directly
12 or indirectly under authority of ~~[such]~~ an inactive license
13 after his association has been terminated and his license as
14 salesperson has been returned to the commission as provided in
15 that article until the appropriate fee has been paid and the
16 license has been reissued by the commission.

17 ~~[F. During the period from July 1, 1995 through~~
18 ~~June 30, 1998, the commission in its discretion may renew~~
19 ~~licenses for periods of one, two or three years for the purpose~~
20 ~~of coordinating continuing education requirements with license~~
21 ~~renewal requirements.] "~~

22 Section 8. Section 61-29-12 NMSA 1978 (being Laws 1959,
23 Chapter 226, Section 11, as amended) is amended to read:

24 "61-29-12. REFUSAL, SUSPENSION OR REVOCATION OF LICENSE

1 FOR CAUSES ENUMERATED. --

2 A. The commission [~~shall have the power to~~] may
3 refuse [~~a license for cause or~~] to issue or may suspend or
4 revoke a license [~~at any time where~~] if the licensee has by
5 false or fraudulent representations obtained a license or,
6 [~~where the licensee~~] in performing or attempting to perform any
7 of the actions [~~mentioned~~] specified in Chapter 61, Article 29
8 NMSA 1978, [~~is deemed to be guilty of: A. making~~] an
9 applicant or licensee has:

10 (1) made a substantial misrepresentation;

11 [~~B. pursuing~~] (2) pursued a continued and
12 flagrant course of misrepresentation; [~~making~~] made false
13 promises through agents, salespersons, advertising or
14 otherwise; or [~~using~~] used any trade name or insignia of
15 membership in any real estate organization of which the
16 licensee is not a member;

17 [~~C. paying or receiving any~~]

18 (3) paid or received a rebate, profit,
19 compensation or commission to or from any unlicensed person,
20 except his principal or other party to the transaction, and
21 then only with his principal's written consent;

22 [~~D. representing or attempting~~]

23 (4) represented or attempted to represent a
24 [~~real estate~~] broker other than [~~the~~] a broker with whom he is
25

1 ~~[Licensed]~~ associated without the express knowledge and consent
2 of ~~[the]~~ that broker;

3 ~~[E.—failing]~~ (5) failed, within a reasonable
4 time, to account for or to remit any money coming into his
5 possession that belongs to others, ~~[commingling]~~ commingled
6 funds of others with his own or ~~[failing]~~ failed to keep ~~[such]~~
7 funds of others in an escrow or trustee account or ~~[failing]~~
8 failed to furnish legible copies of all listing and sales
9 contracts to all parties executing them;

10 ~~[F.—conviction]~~ (6) been convicted in any
11 court of competent jurisdiction of a felony or any offense
12 involving moral turpitude;

13 ~~[G.—employing or compensating]~~

14 (7) employed or compensated directly or
15 indirectly ~~[any]~~ a person for performing any of the acts
16 regulated by Chapter 61, Article 29 NMSA 1978 who is not a
17 licensed broker or licensed salesperson; provided, however,
18 that a licensed broker may pay a commission to a licensed
19 broker of another state; provided further that the nonresident
20 broker ~~[does]~~ shall not conduct in this state any of the
21 negotiations for which a fee, compensation or commission is
22 paid except in cooperation with a licensed broker of this
23 state;

24 ~~[H.—failing, if a broker]~~

1 (8) failed, if a broker, to place as soon
2 after receipt as is practicably possible, after securing
3 signatures of all parties to the transaction, any deposit money
4 or other money received by him in a real estate transaction in
5 a custodial, trust or escrow account maintained by him in a
6 bank or savings and loan institution or title company
7 authorized to do business in this state, in which the funds
8 shall be kept until the transaction is consummated or otherwise
9 terminated, at which time a full accounting of the funds shall
10 be made by the broker. Records relative to the deposit,
11 maintenance and withdrawal of [~~such~~] the funds shall contain
12 information as may be prescribed by the rules [~~and regulations~~]
13 of the commission. Nothing in this [~~subsection shall prohibit~~
14 any] paragraph prohibits a broker from depositing nontrust
15 funds in an amount not to exceed the required minimum balance
16 in each trust account so as to meet the minimum balance
17 requirements of the bank necessary to maintain the account and
18 avoid charges. [~~This~~] The minimum balance deposit shall not be
19 considered commingling and shall not be subject to levy,
20 attachment or garnishment. This [~~subsection, however, shall~~]
21 paragraph does not prohibit a broker from depositing any
22 deposit money or other money received by him in a real estate
23 transaction with another cooperating broker who shall in turn
24 comply with this [~~subsection;~~

underscoring material = new
[bracketed material] = delete

1 I. ~~failing, if a salesperson~~ paragraph;

2 (9) failed, if a salesperson, to place as soon
3 after receipt as is practicably possible in the custody of his
4 ~~[registered]~~ broker, after securing signatures of all parties
5 to the transaction, any deposit money or other money entrusted
6 to him by any person dealing with him as the representative of
7 his ~~[registered]~~ broker;

8 ~~[J. violating any provisions]~~

9 (10) violated a provision of Chapter 61,
10 Article 29 NMSA 1978 or ~~[any reasonable]~~ a rule ~~[or regulation]~~
11 promulgated by the commission; ~~[in the interests of the public~~
12 ~~and in conformance with the provisions of Chapter 61, Article~~
13 ~~29 NMSA 1978; or~~

14 ~~K. any other conduct]~~

15 (11) committed an act, whether of the same or
16 different character from that specified in this ~~[section]~~
17 subsection, that is related to dealings as a ~~[real-estate]~~
18 broker or real estate salesperson and that constitutes or
19 demonstrates bad faith, incompetency, untrustworthiness,
20 impropriety, fraud, dishonesty, negligence or any unlawful act;
21 ~~[Any]~~ or

22 (12) was licensed to practice real estate in
23 another jurisdiction, territory or possession of the United
24 States or another country and was the subject of disciplinary
25

1 action as a licensee.

2 B. An unlawful act or violation of [~~any of the~~
3 ~~provisions of~~] Chapter 61, Article 29 NMSA 1978 by [~~any~~] a real
4 estate salesperson, employee, partner or associate of a
5 licensed [~~real estate~~] broker shall not be cause for the
6 revocation of a license of [~~any real estate~~] the broker unless
7 it appears to the satisfaction of the commission that the [~~real~~
8 ~~estate~~] broker had guilty knowledge of the unlawful act or
9 violation. "

10 Section 9. Section 61-29-14 NMSA 1978 (being Laws 1959,
11 Chapter 226, Section 13, as amended) is amended to read:

12 "61-29-14. NONRESIDENT BROKERS. -- [~~No~~]

13 A. An application for issuance of a license or
14 renewal of an existing [~~broker's~~] license shall be accepted
15 from a nonresident applicant who is a [~~resident of~~] broker
16 licensed in another state [which does not extend] only if the
17 other state extends the privilege of reciprocal licensure to
18 [~~real estate brokers licensed~~] licensees in New Mexico. A
19 qualifying nonresident may become a [~~real estate broker~~] New
20 Mexico nonresident licensee by conforming to all the conditions
21 of Chapter 61, Article 29 NMSA 1978.

22 B. In its discretion, the commission may recognize,
23 in lieu of the recommendations and certificates required to
24 accompany an application for a [~~broker's~~] license, the
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1 ~~[broker's]~~ license issued to a nonresident in another state,
 2 provided the other state extends the privilege of licensure to
 3 ~~[real estate brokers licensed]~~ licensees in New Mexico. The
 4 license shall be issued upon payment of the license fee,
 5 verification that the applicant has complied with his resident
 6 state's current education requirements, of which ninety
 7 classroom hours for a nonresident broker must be approved by
 8 the ~~[New Mexico real estate]~~ commission and thirty of which
 9 shall have been a broker basics course, and the filing by the
 10 applicant with the commission of a certified copy of the
 11 applicant's license issued by the other state, ~~[provided that:~~
 12 ~~A. the applicant shall have maintained]~~ if the applicant:

13 (1) maintains an active place of business in
 14 the state by which he is licensed and ~~[shall pass the written~~
 15 ~~examination required by]~~ meets the licensing requirements of
 16 Section 61-29-10 NMSA 1978; and

17 ~~[B. the applicant shall file]~~ (2) files with
 18 the commission an irrevocable consent that suits and actions
 19 may be commenced against him in the proper court of any county
 20 of this state in which a cause of action may arise or in which
 21 the plaintiff may reside, by the service of any process or
 22 pleadings authorized by the laws of this state on the
 23 commission, the consent stipulating and agreeing that such
 24 service of process or pleadings on the commission ~~[shall be~~
 25

1 ~~taken and held in all courts to be~~ is as valid and binding as
2 if personal service had been made upon the applicant in New
3 Mexico. The instrument containing the consent shall be ~~[duly]~~
4 acknowledged and, if ~~[the applicant is]~~ executed on behalf of a
5 corporation or association, shall be accompanied by ~~[the duly]~~
6 a certified copy of the resolution of the proper officers or
7 managing board authorizing the ~~[proper]~~ executing officer to
8 execute the instrument. ~~[In case any process or pleading~~
9 ~~mentioned in the case is served upon the board, it shall be by~~
10 ~~duplicate copies, one of which]~~ Service of process or pleadings
11 shall be served in duplicate upon the commission; one shall be
12 filed in the office of the commission and the other immediately
13 forwarded by registered mail to the main office of the
14 applicant against which the process or pleadings are directed
15 [and

16 ~~C. the applicant shall file a bond in form and~~
17 ~~content the same as is required of resident applicants under~~
18 ~~Chapter 61, Article 29 NMSA 1978]. "~~

19 Section 10. Section 61-29-15 NMSA 1978 (being Laws 1959,
20 Chapter 226, Section 14) is amended to read:

21 "61-29-15. [PUBLICATION] MAINTENANCE OF LIST OF
22 LICENSEES. -- The commission shall ~~[at least annually, publish]~~
23 maintain a list of the names and addresses of all licensees
24 licensed by it under the provisions of ~~[this act]~~ Chapter 61,

underscored material = new
[bracketed material] = delete

1 Article 29 NMSA 1978, and of all persons whose license has been
 2 suspended or revoked within that year, together with such other
 3 information relative to the enforcement of the provisions of
 4 [~~this act~~] Chapter 61, Article 29 NMSA 1978 as it may deem of
 5 interest to the public. The commission shall also [~~prepare~~]
 6 maintain a statement of all funds received and a statement of
 7 all disbursements, and copies of [~~such~~] the statements shall be
 8 mailed by the commission to any person in this state upon
 9 request. "

10 Section 11. A new section of Chapter 61, Article 29 NMSA
 11 1978 is enacted to read:

12 "[NEW MATERIAL] UNLICENSED ACTIVITY-- CIVIL PENALTY. -- The
 13 commission may impose a civil penalty in an amount not to
 14 exceed one thousand dollars (\$1,000) for each violation and
 15 assess administrative costs for any investigation and
 16 administrative or other proceedings against any person who is
 17 found, through a court or administrative proceeding, to have
 18 acted without a license in violation of Chapter 61, Article 29
 19 NMSA 1978. "

20 Section 12. A new section of Chapter 61, Article 29 NMSA
 21 1978 is enacted to read:

22 "[NEW MATERIAL] REGULATION AND LICENSING DEPARTMENT--
 23 ADMINISTRATIVELY ATTACHED. -- The commission is administratively
 24 attached to the regulation and licensing department. "

underscoring material = new
 [bracketed material] = delete

1 Section 13. EFFECTIVE DATE. --The effective date of the
2 provisions of this act is July 1, 2001.

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