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SENATE BILL 278

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Sander Rue

AN ACT

RELATING TO PROFESSIONAL LICENSURE; AMENDING AND ENACTING
SECTIONS OF THE REAL ESTATE APPRAISERS ACT; PROVIDING FOR
COMPLIANCE WITH FEDERAL LAW; PROVIDING FOR APPRAISAL MANAGEMENT
COMPANIES; PROVIDING FOR TRAINEES; PROVIDING FOR AN APPRAISAL
SUBCOMMITTEE; PROVIDING FOR UNIFORM STANDARDS OF PROFESSIONAL
APPRAISAL PRACTICE; PROVIDING FOR AUTOMATED VALUATION MODELS;
PROVIDING FOR BROKER PRICE OPINIONS; PROVIDING FOR CRIMINAL
BACKGROUND CHECKS.

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

SECTION 1. Section 61-30-3 NMSA 1978 (being Laws 1990,
Chapter 75, Section 3, as amended) is amended to read:

"61-30-3. DEFINITIONS.--As used in the Real Estate
Appraisers Act:

A. "appraisal" or "real estate appraisal" means an

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1 analysis, opinion or conclusion prepared by a real estate
2 appraiser relating to the nature, quality, value or utility of
3 specified interests in or aspects of identified real estate or
4 real property, for or in expectation of compensation, and shall
5 include the following:

6 (1) a valuation, analysis, opinion or
7 conclusion prepared by a real estate appraiser that estimates
8 the value of identified real estate or real property; and

9 (2) an analysis or study of real estate or
10 real property other than estimating value;

11 B. "appraisal assignment" means an engagement for
12 which an appraiser is employed or retained to act or would be
13 perceived by third parties or the public as acting as a
14 disinterested third party in rendering an unbiased appraisal;

15 C. "appraisal foundation" means the appraisal
16 foundation incorporated as an Illinois not-for-profit
17 corporation on November 30, 1987 and to which reference is
18 made in the federal real estate appraisal reform amendments;

19 D. "appraisal management company" means any
20 external third party that oversees a network or panel of
21 state certified or state licensed appraisers to:

22 (1) recruit, select and retain appraisers;

23 (2) contract with appraisers to perform
24 appraisal assignments;

25 (3) manage the process of having an

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1 appraisal performed; or

2 (4) review and verify the work of
3 appraisers;

4 ~~[D-]~~ E. "appraisal report" means any
5 communication, written or oral, of an appraisal regardless of
6 title or designation and all other reports communicating an
7 appraisal;

8 F. "appraisal review" means the act or process of
9 developing and communicating an opinion about the quality of
10 another appraiser's work;

11 G. "appraisal subcommittee" means the entity
12 within the federal financial institutions examination council
13 that monitors the requirements established by the states for
14 appraisers and appraisal management companies;

15 H. "appraiser trainee" means a registered real
16 estate appraiser who meets or exceeds the minimum
17 qualification requirements of the appraiser qualifications
18 board of the appraisal foundation for appraisal trainees and
19 as defined by board rule and who are subject to direct
20 supervision by a supervisory appraiser in good standing with
21 the board;

22 I. "automated valuation model" means a
23 computerized model used by mortgage originators and secondary
24 market issuers to determine the collateral worth of a
25 mortgage secured by a consumer's principal dwelling;

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1 ~~[E.]~~ J. "board" means the real estate appraisers
2 board;

3 K. "broker price opinion" means an estimate
4 prepared by a real estate broker, agent or salesperson that
5 details the probable selling price of a particular piece of
6 real estate;

7 ~~[F.]~~ L. "certified appraisal" or "certified
8 appraisal report" means an appraisal or appraisal report
9 given or signed and certified as such by a state certified
10 real estate appraiser and shall include an indication of
11 which type of certification is held and shall be deemed to
12 represent to the public that it meets the appraisal standards
13 defined in the Real Estate Appraisers Act;

14 ~~[G.]~~ M. "federal real estate appraisal reform
15 amendments" means the Federal Financial Institutions
16 Examination Council Act of 1978, as amended by Title 11, Real
17 Estate Appraisal Reform Amendments;

18 ~~[H.]~~ N. "general certificate" or "general
19 certification" means a certificate or certification for
20 appraisals of all types of real estate issued pursuant to the
21 provisions of the Real Estate Appraisers Act and the federal
22 real estate appraisal reform amendments;

23 ~~[I.]~~ O. "real estate" or "real property" means a
24 leasehold or other estate or interest in, over or under land,
25 including structures, fixtures and other improvements and

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1 interests that by custom, usage or law pass with a conveyance
2 of land, though not described in a contract of sale or
3 instrument of conveyance, and includes parcels with or
4 without upper and lower boundaries and spaces that may be
5 filled with air;

6 ~~[J-]~~ P. "real estate appraiser" means any person
7 who engages in real estate appraisal activity in expectation
8 of compensation;

9 ~~[K-]~~ Q. "residential certificate" or "residential
10 certification" means a certificate or certification, limited
11 to appraisals of residential real estate or residential real
12 property without regard to the complexity of the transaction,
13 issued pursuant to the provisions of the Real Estate
14 Appraisers Act and as provided under the terms of the federal
15 real estate appraisal reform amendments;

16 ~~[L-]~~ R. "residential real estate" or "residential
17 real property" means real estate designed and suited or
18 intended for use and occupancy by one to four families,
19 including use and occupancy of manufactured housing;

20 ~~[M-]~~ S. "specialized services" means those
21 services that do not fall within the definition of an
22 appraisal assignment and may include specialized financing or
23 market analyses and feasibility studies that may incorporate
24 estimates of value or analyses, opinions or conclusions given
25 in connection with activities such as real estate brokerage,

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1 mortgage banking, real estate counseling and real estate tax
2 counseling; provided that the person rendering such services
3 would not be perceived by third parties or the public as
4 acting as a disinterested third party in rendering an
5 unbiased appraisal or real estate appraisal, regardless of
6 the intention of the client and that person;

7 [N.] T. "state certified appraisal" means any
8 appraisal that is identified as a state certified appraisal
9 report or is in any way described as being prepared by a
10 state certified real estate appraiser;

11 [O.] U. "state certified real estate appraiser"
12 means a person who [~~holds a current, valid general~~
13 ~~certificate or a current, valid residential certificate~~
14 ~~issued pursuant to the provisions of the Real Estate~~
15 ~~Appraisers Act]~~ has satisfied the requirements for state
16 certification in New Mexico pursuant to the minimum criteria
17 established by the appraiser qualifications board of the
18 appraisal foundation and the New Mexico real estate
19 appraisers board for certified licensing of real estate
20 appraisers;

21 [P.] V. "state licensed residential real estate
22 appraiser" means a person who [~~holds a current, valid license~~
23 ~~issued pursuant to the provisions of the Real Estate~~
24 ~~Appraisers Act; and~~

25 Q. ~~"state apprentice real estate appraiser" means~~

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1 ~~a person who holds a current, valid registration issued~~
2 ~~pursuant to the provisions of the Real Estate Appraisers Act]~~
3 has satisfied the requirements for state licensing in New
4 Mexico pursuant to the minimum criteria established by the
5 appraiser qualifications board of the appraisal foundation
6 and the New Mexico real estate appraisers board for licensing
7 of real estate appraisers;

8 W. "supervisory appraiser" means a state
9 certified real estate appraiser responsible for the direct
10 supervision of appraiser trainees; and

11 X. "uniform standards of professional appraisal
12 practice" means the uniform standards of professional
13 appraisal practice promulgated by the appraisal foundation
14 and adopted by rule pursuant to the Real Estate Appraisers
15 Act."

16 SECTION 2. Section 61-30-4 NMSA 1978 (being Laws 1990,
17 Chapter 75, Section 4, as amended) is amended to read:

18 "61-30-4. ADMINISTRATION--ENFORCEMENT.--

19 A. The board shall administer and enforce the
20 Real Estate Appraisers Act.

21 B. It is unlawful for a person to engage in the
22 business, act in the capacity of, advertise or display in any
23 manner or otherwise assume to engage in the business of, or
24 act as, [~~a state apprentice real estate~~] an appraiser
25 trainee, a state licensed residential real estate appraiser

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1 or a state certified real estate appraiser without a license
2 issued by the board. A person who engages in the business or
3 acts in the capacity of [~~a state apprentice real estate~~] an
4 appraiser trainee, a state licensed residential real estate
5 appraiser or a state certified real estate appraiser has
6 submitted to the jurisdiction of the state and to the
7 administrative jurisdiction of the board, notwithstanding any
8 other provisions or statutes governing all professional and
9 occupational licenses.

10 C. The board shall prohibit discrimination.

11 Criteria established by the board may include education
12 achieved, experience, sample appraisals and references from
13 prior clients. Membership in a nationally recognized
14 professional appraisal organization may be a criterion
15 considered, though lack of membership shall not be the sole
16 bar against consideration for an assignment under these
17 criteria."

18 **SECTION 3.** Section 61-30-5 NMSA 1978 (being Laws 1990,
19 Chapter 75, Section 5, as amended) is amended to read:

20 "61-30-5. REAL ESTATE APPRAISERS BOARD CREATED.--

21 A. There is created a "real estate appraisers
22 board" consisting of seven members appointed by the governor.
23 The board is administratively attached to the regulation and
24 licensing department.

25 B. There shall be four real estate appraiser

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1 members of the board who shall be licensed or certified.
2 Membership in a professional appraisal organization or
3 association shall not be a prerequisite to serve on the
4 board. No more than two real estate appraiser members shall
5 be from any one licensed or certified category.

6 C. Board members shall be appointed to five-year
7 terms and shall serve until ~~[their]~~ a successor is appointed
8 and qualified. Real estate appraiser members may be
9 appointed for no more than two consecutive five-year terms.

10 D. No more than two members shall be from any one
11 county within New Mexico, and at least one real estate
12 appraiser member shall be from each congressional district.

13 E. One member of the board shall represent
14 lenders or their assignees engaged in the business of lending
15 funds secured by mortgages or in the business of appraisal
16 management. Two members shall be appointed to represent the
17 public. The public members shall not have been real estate
18 appraisers or engaged in the business of real estate
19 appraisals or have any financial interest, direct or
20 indirect, in real estate appraisal or any real-estate-related
21 business.

22 F. Vacancies on the board shall be filled by
23 appointment by the governor for the unexpired term within
24 sixty days of the vacancy.

25 G. The ~~[board is administratively attached to the~~

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1 ~~regulation and licensing department]~~ appraisal subcommittee
2 may monitor the board for the purposes of determining whether
3 the board:

4 (1) has policies, practices, funding,
5 staffing and procedures that are consistent with 12 U.S.C.
6 1101-1125;

7 (2) processes complaints and completes
8 investigations in a reasonable time period;

9 (3) appropriately disciplines sanctioned
10 appraisers and appraisal management companies;

11 (4) maintains an effective regulatory
12 program; and

13 (5) reports complaints and disciplinary
14 actions on a timely basis to the national registries on
15 appraisers and appraisal management companies maintained by
16 the appraisal subcommittee.

17 H. The appraisal subcommittee may impose
18 sanctions against the board if it fails to have an effective
19 appraiser regulatory program."

20 SECTION 4. Section 61-30-7 NMSA 1978 (being Laws 1990,
21 Chapter 75, Section 7, as amended) is amended to read:

22 "61-30-7. BOARD--POWERS--DUTIES.--The board shall:

23 A. adopt rules necessary to implement the
24 provisions of the Real Estate Appraisers Act;

25 B. establish educational programs and research

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1 projects related to the appraisal of real estate;

2 C. establish the administrative procedures for
3 processing applications and issuing registrations, licenses
4 and certificates to persons who qualify to be [~~state~~
5 ~~apprentice real estate appraisers~~] appraiser trainees, state
6 licensed residential real estate appraisers or state
7 certified real estate appraisers;

8 D. receive, review and approve applications for
9 [~~state apprentice real estate appraisers~~] appraiser trainees,
10 state licensed residential real estate appraisers and each
11 category of state certified real estate appraisers [~~and, for~~
12 ~~state licensed or state certified real estate appraisers~~
13 ~~prepare or supervise the preparation of examination questions~~
14 ~~and answers and supervise grading of examinations and enter~~
15 ~~into contracts with one or more educational testing services~~
16 ~~or organizations for such examinations~~];

17 E. define the extent and type of educational
18 experience, appraisal experience and equivalent experience
19 that will meet the requirements for registration, licensing
20 and certification [~~under~~] pursuant to the Real Estate
21 Appraisers Act after considering generally recognized
22 appraisal practices and set minimum requirements for
23 education and experience;

24 F. provide for continuing education programs for
25 the renewal of registrations, licenses and certification that

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1 will meet the requirements provided in the Real Estate
2 Appraisers Act and set minimum requirements;

3 G. adopt standards to define the education
4 programs that will meet the requirements of the Real Estate
5 Appraisers Act and that will encourage conducting programs at
6 various locations throughout the state;

7 H. adopt standards for the development and
8 communication of real estate appraisals provided in the Real
9 Estate Appraisers Act and adopt rules explaining and
10 interpreting the standards after considering generally
11 recognized appraisal practices;

12 I. adopt a code of professional responsibility
13 for [~~state apprentice real estate appraisers~~] appraiser
14 trainees, state licensed residential real estate appraisers
15 and state certified real estate appraisers;

16 J. comply with annual reporting requirements and
17 other requirements set forth in the federal real estate
18 appraisal reform amendments;

19 K. collect and transmit annual registry fees from
20 individuals who perform or seek to perform appraisals in
21 federally related transactions and from an appraisal
22 management company that either has registered with the board
23 or operates as a subsidiary of a federally regulated
24 financial institution;

25 [~~K-~~] L. maintain a registry of the names and

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1 addresses of the persons who hold current registrations,
2 licenses and certificates issued under the Real Estate
3 Appraisers Act;

4 ~~[H.]~~ M. establish procedures for disciplinary
5 action in accordance with the Uniform Licensing Act against
6 any applicant or holder of a registration, license or
7 certificate for violations of the Real Estate Appraisers Act
8 and any rules adopted pursuant to provisions of that act;
9 ~~[and]~~

10 N. register and supervise appraisal management
11 companies and the addition of information about appraisal
12 management companies to the appraisal subcommittee's national
13 registry;

14 O. recognize appraiser certifications and
15 licenses from states whose appraisal policies, practices,
16 funding, staffing or procedures are found to be consistent
17 with 12 U.S.C. 1101-1125; and

18 ~~[M.]~~ P. perform such other functions and duties
19 as may be necessary to carry out the provisions of the Real
20 Estate Appraisers Act."

21 **SECTION 5.** Section 61-30-8 NMSA 1978 (being Laws 1990,
22 Chapter 75, Section 8, as amended) is amended to read:

23 "61-30-8. BOARD--ORGANIZATION--MEETINGS.--

24 A. The board shall organize by electing a
25 ~~[chairperson]~~ chair and vice ~~[chairperson and secretary]~~

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1 chair from among its members annually. A majority of the
2 board shall constitute a quorum and may exercise all powers
3 and duties established by the provisions of the Real Estate
4 Appraisers Act.

5 B. The board shall keep a record of its
6 proceedings, a register of persons registered, licensed or
7 certified as [~~state apprentice real estate appraisers~~]
8 appraiser trainees, state licensed residential real estate
9 appraisers or state certified real estate appraisers, showing
10 the name and places of business of each, and shall retain all
11 records and applications submitted to the board pursuant to
12 the Real Estate Appraisers Act.

13 C. The board shall meet not less frequently than
14 once each calendar quarter at such place as may be designated
15 by the board, and special meetings may be held on five days'
16 written notice to each of the members by the [~~chairperson~~]
17 chair. At least annually, the board shall meet in each of
18 the congressional districts."

19 SECTION 6. Section 61-30-10 NMSA 1978 (being Laws 1990,
20 Chapter 75, Section 10, as amended) is amended to read:

21 "61-30-10. REGISTRATION, LICENSE OR CERTIFICATION
22 REQUIRED--EXCEPTIONS.--

23 A. It is unlawful for any person in this state to
24 engage or attempt to engage in the business of developing or
25 communicating real estate appraisals or appraisal reports

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1 without first registering as an [~~apprentice~~] appraiser
2 trainee or obtaining a license or certificate from the board
3 under the provisions of the Real Estate Appraisers Act.

4 B. No person, unless certified by the board as a
5 state certified real estate appraiser under a general
6 certification or residential certification, shall:

7 (1) assume or use any title, designation or
8 abbreviation likely to create the impression of a state
9 certified real estate appraiser;

10 (2) use the term "state certified" to
11 describe or refer to any appraisal or evaluation of real
12 estate prepared by [~~him~~] the person;

13 (3) assume or use any title, designation or
14 abbreviation likely to create the impression of certification
15 as a state certified real estate appraiser firm, partnership,
16 corporation or group; or

17 (4) assume or use any title, designation or
18 abbreviation likely to create the impression of certification
19 under a general certificate or describe or refer to any
20 appraisal or evaluation of nonresidential real estate by the
21 term "state certified" if the preparer's certification is
22 limited to residential real estate.

23 C. [~~A state apprentice real estate~~] An appraiser
24 trainee who is registered but does not hold a license or
25 certificate is only authorized to prepare appraisals of all

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1 types of real estate or real property under direct
2 supervision of the supervisory appraiser; provided that such
3 appraisals are not described or referred to as being prepared
4 by a "state certified real estate appraiser" holding a
5 residential or general certificate or by a "state licensed
6 residential real estate appraiser"; and provided, further,
7 that such person does not assume or use any title,
8 designation or abbreviation likely to create the impression
9 of certification as a state certified real estate appraiser
10 or licensure as a state licensed residential real estate
11 appraiser.

12 ~~[D. A holder of a license or residential~~
13 ~~certificate is authorized to prepare appraisals of~~
14 ~~nonresidential real estate; provided such appraisals are not~~
15 ~~described or referred to as "state certified by a general~~
16 ~~certified appraiser"; and provided, further, the holder of~~
17 ~~the certificate does not assume or use any title, designation~~
18 ~~or abbreviation likely to create the impression of general~~
19 ~~certification.~~

20 ~~E. To perform in federally related transactions,~~
21 ~~as referenced in the federal Financial Institutions Reform,~~
22 ~~Recovery and Enforcement Act, a real estate appraiser shall,~~
23 ~~at a minimum, meet the requirements for licensing as~~
24 ~~currently defined.]~~

25 D. In determining whether an appraisal in

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1 connection with a federally related transaction shall be
2 performed by a state certified real estate appraiser, the
3 board shall consider whether transactions, either
4 individually or collectively, are of sufficient financial or
5 public policy importance to the United States that an
6 individual who performs an appraisal in connection with such
7 transaction should be a state certified real estate
8 appraiser; provided that:

9 (1) a state certified real estate appraiser
10 shall be required for all federally related transactions
11 having a value of one million dollars (\$1,000,000) or more;
12 and

13 (2) one- to four-unit, single-family
14 residential property appraisals may be performed by state
15 licensed residential real estate appraisers unless the size
16 and complexity requires a state certified real estate
17 appraiser because the property to be appraised, the form of
18 ownership of the property, the property characteristics or
19 the market condition for the property is atypical.

20 [~~F.~~] E. The requirement of registration,
21 licensing or certification shall not apply to a real estate
22 broker or salesperson who, in the ordinary course of
23 business, [~~gives an opinion~~] provides an estimate of the
24 price, [~~or value~~] as currently defined by the uniform
25 standards of professional appraisal practice, of real estate

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1 for the purpose of securing a listing, marketing of real
2 property, affecting a sale, lease or exchange, conducting
3 market analyses or rendering specialized services; provided,
4 however, that this [~~opinion~~] estimate of the price [~~or value~~]
5 shall not be referred to or construed as an appraisal or
6 appraisal report and no compensation, fee or other
7 consideration is expected or charged for such [~~opinion~~]
8 estimate, other than the real estate brokerage commission or
9 fee for services rendered in connection with the identified
10 real estate or real property.

11 [~~G.~~] F. The requirement of registration,
12 licensing or certification shall not apply to real estate
13 appraisers of the property tax division of the taxation and
14 revenue department, to a county assessor or to the county
15 assessor's employees, who as part of their duties are
16 required to engage in real estate appraisal activity as a
17 county assessor or on behalf of the county assessor and no
18 additional compensation fee or other consideration is
19 expected or charged for such appraisal activity, other than
20 such compensation as is provided by law.

21 [~~H.~~] G. The prohibition of Subsection A of this
22 section does not apply to persons whose real estate appraisal
23 activities are limited to the appraisal of interests in
24 minerals, including oil, natural gas, liquid hydrocarbons or
25 carbon dioxide, and property held or used in connection with

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1 mineral property, if that person is authorized in [~~his~~] the
2 person's state of residence to practice and is actually
3 engaged in the practice of the profession of engineering or
4 geology.

5 [~~F.~~] H. The process of analyzing, without
6 altering, an appraisal report, except appraisal reviews as
7 defined by the uniform standards of professional appraisal
8 practice, that is part of a request for mortgage credit is
9 considered a specialized service as defined in Subsection [~~M~~]
10 S of Section 61-30-3 NMSA 1978 and is exempt from the
11 requirements of registration, licensing or certification."

12 SECTION 7. Section 61-30-10.1 NMSA 1978 (being Laws
13 1992, Chapter 54, Section 8, as amended) is amended to read:

14 "61-30-10.1. QUALIFICATION FOR [~~STATE APPRENTICE REAL~~
15 ~~ESTATE APPRAISERS~~] APPRAISER TRAINEE.--

16 A. Registration as [~~a state apprentice real~~
17 ~~estate~~] an appraiser trainee shall be granted only to persons
18 who are deemed by the board to be of good repute and
19 competent to render appraisals.

20 B. Each applicant for registration as [~~a state~~
21 ~~apprentice real estate~~] an appraiser trainee shall be a legal
22 resident of the United States, except as otherwise provided
23 in Section 61-30-20 NMSA 1978, and have reached the age of
24 majority.

25 C. Each applicant for registration as [~~a state~~

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1 ~~apprentice real estate~~ an appraiser trainee shall have the
2 education requirements as established for the ~~[apprentice]~~
3 appraiser trainee classification issued by the appraiser
4 qualifications board of the appraisal foundation and adopted
5 by rule pursuant to the Real Estate Appraisers Act.

6 D. The board shall require such information as it
7 deems necessary from every applicant to determine the
8 applicant's honesty, trustworthiness and competency."

9 SECTION 8. Section 61-30-11 NMSA 1978 (being Laws 1990,
10 Chapter 75, Section 11, as amended) is amended to read:

11 "61-30-11. QUALIFICATIONS FOR LICENSE.--

12 A. Licenses shall be granted only to persons who
13 are deemed by the board to be of good repute and competent to
14 render appraisals.

15 B. Each applicant for a license as a state
16 licensed residential real estate appraiser shall be a legal
17 resident of the United States, except as otherwise provided
18 in Section 61-30-20 NMSA 1978, and have reached the age of
19 majority.

20 C. Each applicant for a license as a state
21 licensed residential real estate appraiser shall have
22 additional experience and education requirements as
23 established for the licensed classification issued by the
24 appraiser qualifications board of the appraisal foundation
25 and adopted by rule pursuant to the Real Estate Appraisers

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1 Act.

2 D. The board shall require such information as it
3 deems necessary from every applicant to determine the
4 applicant's honesty, trustworthiness and competency.

5 E. Persons who do not meet the qualifications for
6 licensure are not qualified for appraisal assignments
7 involving federally related transactions."

8 SECTION 9. Section 61-30-12 NMSA 1978 (being Laws 1990,
9 Chapter 75, Section 12, as amended) is amended to read:

10 "61-30-12. QUALIFICATIONS FOR ~~[CERTIFICATE]~~ CERTIFIED
11 RESIDENTIAL AND GENERAL REAL ESTATE APPRAISERS.--

12 A. ~~[Certificates]~~ Certified classification shall
13 be granted only to persons who are deemed by the board to be
14 of good repute and competent to render appraisals.

15 B. Each applicant for a ~~[certificate as a state]~~
16 certified residential or general real estate appraiser
17 classification shall be a legal resident of the United
18 States, except as otherwise provided in Section 61-30-20 NMSA
19 1978, and have reached the age of majority.

20 C. Each applicant for a residential certificate
21 as a state certified real estate appraiser shall have
22 performed actively as a real estate appraiser and shall have
23 additional experience and education requirements as
24 established for the residential certification classification
25 issued by the appraiser qualifications board of the appraisal

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1 foundation and adopted by rule pursuant to the Real Estate
2 Appraisers Act.

3 D. Each applicant for a general certificate as a
4 state certified real estate appraiser shall have performed
5 actively as a real estate appraiser and have additional
6 experience and education requirements as established for the
7 general certification classification issued by the appraiser
8 qualifications board of the appraisal foundation and adopted
9 pursuant to the Real Estate Appraisers Act.

10 E. The board shall require such information as it
11 deems necessary from every applicant to determine the
12 applicant's honesty, trustworthiness and competency."

13 SECTION 10. Section 61-30-13 NMSA 1978 (being Laws
14 1990, Chapter 75, Section 13, as amended) is amended to read:

15 "61-30-13. APPLICATION FOR REGISTRATION, LICENSE OR
16 CERTIFICATE--EXAMINATION.--

17 A. All applications for registrations, licenses
18 or certificates shall be made to the board in writing, either
19 in person or electronically, shall specify whether
20 registration or a license or a certificate is being applied
21 for by the applicant and, if a certificate, the
22 classification of the certificate being applied for by the
23 applicant and shall contain such data and information as may
24 be required by the board.

25 B. Each applicant for a license or a certificate

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1 shall demonstrate, by successfully passing a written
2 examination, prepared by or under the supervision of the
3 board, that the applicant possesses, consistent with
4 licensure or the certification sought, the following:

5 (1) an appropriate knowledge of technical
6 terms commonly used in or related to real estate appraising,
7 appraisal report writing and economic concepts applicable to
8 real estate;

9 (2) a basic understanding of real estate
10 law;

11 (3) an adequate knowledge of theory and
12 techniques of real estate appraisal;

13 (4) an understanding of the principles of
14 land economics, real estate appraisal processes and problems
15 likely to be encountered in the gathering, interpreting and
16 processing of data in carrying out appraisal disciplines;

17 (5) an understanding of the standards for
18 the development and communication of real estate appraisals
19 as provided in the Real Estate Appraisers Act;

20 (6) knowledge of theories of depreciation,
21 cost estimating, methods of capitalization and the
22 mathematics of real estate appraisal that are appropriate for
23 the classification of certificate applied for by the
24 applicant;

25 (7) knowledge of other principles and

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1 procedures as may be appropriate for the respective
2 classification; and

3 (8) an understanding of the types of
4 misconduct for which disciplinary proceedings may be
5 initiated against [~~a state apprentice real estate~~] an
6 appraiser trainee, a state licensed residential real estate
7 appraiser or a state certified real estate appraiser as set
8 forth in the Real Estate Appraisers Act.

9 [~~G. The examination shall be given at least four~~
10 ~~times each calendar year at such times and places within the~~
11 ~~state as the board prescribes. The board shall make a~~
12 ~~reasonable effort to conduct examinations in each~~
13 ~~congressional district. Notice of passing or failing the~~
14 ~~examination shall be given by the board to each applicant not~~
15 ~~later than forty-five days following the date of the~~
16 ~~examination.~~

17 ~~D.]~~ C. An applicant for a license or a
18 certificate who fails to successfully complete the written
19 examination may apply for a reexamination for a license or
20 certificate upon compliance with such conditions as set forth
21 in the rules adopted by the board pursuant to the provisions
22 of the Real Estate Appraisers Act."

23 SECTION 11. Section 61-30-14 NMSA 1978 (being Laws
24 1990, Chapter 75, Section 14, as amended) is amended to read:

25 "61-30-14. ISSUANCE AND RENEWAL OF REGISTRATION,

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1 LICENSES AND CERTIFICATES.--

2 A. The board shall issue to each qualified
3 applicant evidence of registration, a license or a
4 certificate in a form and size prescribed by the board.

5 B. The board in its discretion may renew
6 registrations, licenses or certificates for periods of one,
7 two or three years for the purpose of coordinating continuing
8 education requirements with registration, license or
9 certificate renewal requirements.

10 C. Each registration, license or certificate
11 holder shall submit proof of compliance with continuing
12 education requirements and the renewal fee.

13 D. ~~[At the election of eligible holders of a~~
14 ~~registration, license or certificate who perform or seek to~~
15 ~~perform appraisals in federally related transactions under~~
16 ~~the federal real estate appraisal reform amendments]~~ Each
17 application for renewal shall include payment of a registry
18 fee set by the federal financial institutions examination
19 council. The registry fee shall be transmitted by the board
20 to the federal financial institutions examination council.
21 ~~[Notice of whether the state apprentice real estate~~
22 ~~appraiser, state licensed real estate appraiser or state~~
23 ~~certified real estate appraiser has paid the federal registry~~
24 ~~fee and is thus eligible to perform in federally related~~
25 ~~transactions shall be included on the face of each~~

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1 ~~registration, license and certificate issued by the board.]~~

2 E. The board shall certify renewal of each
3 registration, license or certificate in the absence of any
4 reason or condition that might warrant the refusal of the
5 renewal of a registration, license or certificate.

6 F. In the event ~~any~~ that a registration,
7 license or certificate holder fails to properly apply for
8 renewal of the registration, license or certificate within
9 the thirty days immediately following ~~his~~ the registration,
10 license or certificate renewal date of any given year, the
11 registration, license or certificate shall expire thirty days
12 following the renewal date.

13 G. The board may renew an expired registration
14 upon application, payment of the current annual renewal fee,
15 submission of proof of compliance with continuing education
16 requirements and payment of a reinstatement fee in the amount
17 not to exceed two hundred dollars (\$200), in addition to any
18 other fee permitted under the Real Estate Appraisers Act.

19 H. The board may renew an expired license or
20 certificate upon application, payment of the current annual
21 renewal fee, submission of proof of compliance with
22 continuing education requirements and payment of the
23 reinstatement fee, in addition to any other fee permitted
24 under the Real Estate Appraisers Act; provided that the board
25 may, in the board's discretion, treat the former certificate

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1 holder as a new applicant and further may require
2 reexamination as a condition to reissuance of a certificate.

3 I. If during a period of one year from the date a
4 registration, license or certificate expires, the
5 registration, license or certificate holder is either absent
6 from this state on active duty military service or is
7 suffering from an illness or injury of such severity that the
8 person is physically or mentally incapable of renewal of the
9 registration, license or certificate, payment of the
10 reinstatement fee and, in the case of a license or
11 certificate holder, reexamination shall not be required by
12 the board if, within three months of the person's permanent
13 return to this state or sufficient recovery from illness or
14 injury to allow the person to make an application, the person
15 makes application to the board for renewal. A copy of the
16 person's military orders or a certificate of the applicant's
17 physician shall accompany the application.

18 J. The board may adopt additional requirements by
19 rule for the issuance or renewal of registrations, licenses
20 or certificates to maintain or upgrade real estate appraiser
21 qualifications at a level no less than the recommendations of
22 the appraiser qualifications board of the appraisal
23 foundation or the requirements of the appraisal
24 subcommittee."

25 SECTION 12. Section 61-30-15 NMSA 1978 (being Laws

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1 1990, Chapter 75, Section 15, as amended) is amended to read:

2 "61-30-15. REFUSAL, SUSPENSION OR REVOCATION OF
3 REGISTRATION, LICENSE OR CERTIFICATE.--

4 A. The board, consistent with Section 61-30-7
5 NMSA 1978, shall refuse to issue or renew a registration,
6 license or certificate or shall suspend or revoke a
7 registration, license or certificate at any time when the
8 applicant, [~~state apprentice real estate~~] appraiser trainee,
9 state licensed residential real estate appraiser or state
10 certified real estate appraiser, in performing or attempting
11 to perform any of the actions set forth in the Real Estate
12 Appraisers Act, is determined by the board to have:

13 (1) procured or attempted to procure a
14 registration, license or certificate by knowingly making a
15 false statement or submitting false information or through
16 any form of fraud or misrepresentation;

17 (2) refused to provide complete information
18 in response to a question in an application for registration,
19 a license or certificate or failed to meet the minimum
20 qualifications established by the Real Estate Appraisers Act;

21 (3) paid money, other than as provided for
22 in the Real Estate Appraisers Act, to any member or employee
23 of the board to procure registration, a license or a
24 certificate;

25 (4) been convicted of a crime that is

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1 substantially related to the qualifications, functions and
2 duties of the person developing real estate appraisals and
3 communicating real estate appraisals to others;

4 (5) committed an act involving dishonesty,
5 fraud or misrepresentation or by omission engaged in a
6 dishonest or fraudulent act or misrepresentation with the
7 intent to substantially benefit the registration, license or
8 certificate holder or another person or with the intent to
9 substantially injure another person;

10 (6) willfully disregarded or violated any of
11 the provisions of the Real Estate Appraisers Act or the rules
12 of the board adopted pursuant to that act;

13 (7) accepted an appraisal assignment when
14 the employment itself is contingent upon the real estate
15 appraiser reporting a predetermined analysis or opinion or
16 where the fee to be paid for the performance of the appraisal
17 assignment is contingent upon the opinion, conclusion or
18 valuation reached or upon the consequences resulting from the
19 appraisal assignment; provided that a contingent fee
20 agreement is permitted for the rendering of special services
21 not constituting an appraisal assignment and the acceptance
22 of a contingent fee is clearly and prominently stated on the
23 written appraisal report;

24 (8) suffered the entry of a final civil
25 judgment on the grounds of fraud, misrepresentation or deceit

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1 in the making of an appraisal; provided that the [~~state~~
2 ~~apprentice real estate~~] appraiser trainee, state licensed
3 residential real estate appraiser or state certified real
4 estate appraiser shall be afforded an opportunity to present
5 matters in mitigation and extenuation, but may not
6 collaterally attack the civil judgment; or

7 (9) committed any other conduct that is
8 related to dealings as [~~a state apprentice real estate~~] an
9 appraiser trainee, a state licensed residential real estate
10 appraiser or a state certified real estate appraiser and that
11 constitutes or demonstrates bad faith, untrustworthiness,
12 impropriety, fraud, dishonesty or any unlawful act.

13 B. The board, consistent with Section 61-30-7
14 NMSA 1978, shall refuse to issue or renew a registration,
15 license or certificate and shall suspend or revoke a
16 registration, license or certificate at any time when the
17 board determines that the applicant or [~~state apprentice real~~
18 ~~estate~~] appraiser trainee, state licensed residential real
19 estate appraiser or state certified real estate appraiser, in
20 the performance of real estate appraisal work, has:

21 (1) repeatedly failed to observe one or more
22 of the standards for the development or communication of real
23 estate appraisals set forth in the rules adopted pursuant to
24 the Real Estate Appraisers Act;

25 (2) repeatedly failed or refused, without

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1 good cause, to exercise reasonable diligence in developing an
2 appraisal, preparing an appraisal report or communicating an
3 appraisal;

4 (3) repeatedly been negligent or incompetent
5 in developing an appraisal, in preparing an appraisal report
6 or in communicating an appraisal; or

7 (4) violated the confidential nature of
8 records to which the [~~state apprentice real estate~~] appraiser
9 trainee, state licensed residential real estate appraiser or
10 state certified real estate appraiser gained access through
11 employment or engagement as such an appraiser.

12 C. The action of the board relating to the
13 issuance, suspension or revocation of any registration,
14 license or certificate shall be governed by the provisions of
15 the Uniform Licensing Act; provided that the time limitations
16 set forth in the Uniform Licensing Act shall not apply to the
17 processing of administrative complaints filed with the board,
18 which shall be governed by federal statute, regulation or
19 policy. The board shall participate in any hearings required
20 or conducted by the board pursuant to the provisions of the
21 Uniform Licensing Act.

22 D. The provisions of the Criminal Offender
23 Employment Act shall govern any consideration of criminal
24 records required or permitted under the Real Estate
25 Appraisers Act.

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1 E. Nothing in the Real Estate Appraisers Act
2 shall be construed to preclude any other remedies otherwise
3 available under common law or statutes of this state."

4 SECTION 13. Section 61-30-16 NMSA 1978 (being Laws
5 1990, Chapter 75, Section 16, as amended) is amended to read:

6 "61-30-16. STANDARDS OF PROFESSIONAL APPRAISAL
7 PRACTICE--CERTIFICATE OF GOOD STANDING.--

8 A. Each [~~real estate appraiser registered,~~
9 ~~licensed or certified under the Real Estate Appraisers Act]~~
10 appraiser trainee, state licensed residential real estate
11 appraiser or state certified real estate appraiser shall
12 comply with generally accepted standards of professional
13 appraisal practice and generally accepted ethical rules to be
14 observed by a real estate appraiser. Generally accepted
15 standards of professional appraisal practice are currently
16 evidenced by the uniform standards of professional appraisal
17 practice [~~promulgated by the appraisal foundation and as~~
18 ~~adopted by regulation under the Real Estate Appraisers Act]~~.
19 Real estate appraisals shall be written or oral appraisals
20 and subject to appropriate review for compliance with the
21 uniform standards of professional appraisal practice. The
22 work file for an oral appraisal report shall be subject to
23 appropriate review for compliance with the uniform standards
24 of professional appraisal practice.

25 B. The board, upon payment of a fee in an amount
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1 specified in its regulations, may issue a certificate of good
2 standing to any state registered, licensed or certified real
3 estate appraiser who is in good standing under the Real
4 Estate Appraisers Act."

5 SECTION 14. Section 61-30-17 NMSA 1978 (being Laws
6 1990, Chapter 75, Section 17, as amended) is amended to read:

7 "61-30-17. FEES.--

8 A. The board shall charge and collect the
9 following fees not to exceed:

10 ~~[A.]~~ (1) an application fee for a
11 registration, two hundred dollars (\$200);

12 ~~[B.]~~ (2) an application fee for a license or
13 residential certification, four hundred dollars (\$400);

14 ~~[C.]~~ (3) an application fee for general
15 certification, five hundred dollars (\$500);

16 ~~[D.]~~ (4) an examination fee for general and
17 residential certification or license, two hundred dollars
18 (\$200);

19 ~~[E.]~~ (5) a registration renewal fee, two
20 hundred fifty dollars (\$250);

21 ~~[F.]~~ (6) a certificate renewal fee for
22 residential certification, or license renewal, four hundred
23 fifty dollars (\$450);

24 ~~[G.]~~ (7) a certificate renewal fee for
25 general certification, five hundred dollars (\$500);

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1 [~~H.~~] (8) the registry fee as required by the
2 federal real estate appraisal reform amendments;

3 [~~F.~~] (9) for registration for temporary
4 practice, two hundred dollars (\$200);

5 [~~J.~~] (10) for each duplicate registration,
6 license or certificate issued because a registration, license
7 or certificate is lost or destroyed and an affidavit as to
8 its loss or destruction is made and filed, fifty dollars
9 (\$50.00); and

10 [~~K.~~] (11) fees to cover reasonable and
11 necessary administrative expenses.

12 B. The board shall establish the fee for
13 appraisal management company registration by rule to cover
14 the cost of the administration of the Appraisal Management
15 Company Registration Act, but in no case shall the fee be
16 more than two thousand dollars (\$2,000). Registration fees
17 shall be credited to the appraiser fund pursuant to Section
18 61-30-18 NMSA 1978."

19 SECTION 15. Section 61-30-18 NMSA 1978 (being Laws
20 1990, Chapter 75, Section 18, as amended) is amended to read:

21 "61-30-18. APPRAISER FUND CREATED--DISPOSITION--METHOD
22 OF PAYMENT.--

23 A. There is created in the state treasury the
24 "appraiser fund" to be administered by the board. All fees
25 received by the board pursuant to the Real Estate Appraisers

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1 Act and the Appraisal Management Company Registration Act
2 shall be deposited with the state treasurer to the credit of
3 the appraiser fund. Income earned on investment of the fund
4 shall be credited to the fund.

5 B. Money in the appraiser fund shall be used by
6 the board to meet necessary expenses incurred in the
7 enforcement of the provisions of the Real Estate Appraisers
8 Act and the Appraisal Management Company Registration Act, in
9 carrying out the duties imposed by the Real Estate Appraisers
10 Act and the Appraisal Management Company Registration Act and
11 for the promotion of education and standards for real estate
12 appraisers in this state. Payments out of the appraiser fund
13 shall be on vouchers issued and signed by the person
14 designated by the board upon warrants drawn by the department
15 of finance and administration.

16 C. All unexpended or unencumbered balances
17 remaining at the end of each fiscal year shall remain in the
18 appraiser fund for use in accordance with the provisions of
19 the Real Estate Appraisers Act and the Appraisal Management
20 Company Registration Act. Money in the fund shall be used by
21 the board to support efforts to comply with 12 U.S.C. 1101-
22 1125, including the complaint process, complaint
23 investigations and appraiser enforcement activities."

24 SECTION 16. Section 61-30-19 NMSA 1978 (being Laws
25 1990, Chapter 75, Section 19, as amended) is amended to read:

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1 "61-30-19. CONTINUING EDUCATION.--

2 A. The board shall adopt rules providing for
3 continuing education programs that offer courses in real
4 property appraisal, practices and techniques, including basic
5 real estate law and practice. The rules shall require that
6 every [~~state apprentice real estate~~] appraiser trainee, state
7 licensed residential real estate appraiser or state certified
8 real estate appraiser, as a condition to renewal, shall
9 successfully complete the continuing education requirements
10 approved by the board.

11 B. The rules shall prescribe areas of specialty
12 or expertise relating to registration, licenses and the type
13 of certificate held and may require that a certain part of
14 continuing education be devoted to courses in the area of the
15 [~~state apprentice real estate appraiser's~~] appraiser
16 trainee's, state licensed residential real estate appraiser's
17 or state certified real estate appraiser's specialty or
18 expertise. The rules shall also permit [~~state apprentice~~
19 ~~real estate appraisers~~] appraiser trainees, state licensed
20 residential real estate appraisers or state certified real
21 estate appraisers to meet the continuing education
22 requirements by participation other than as a student in
23 educational processes and programs in real property appraisal
24 theory, practices and techniques by instructing or preparing
25 educational materials."

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1 SECTION 17. Section 61-30-20 NMSA 1978 (being Laws
2 1990, Chapter 75, Section 20, as amended) is amended to read:

3 "61-30-20. NONRESIDENT APPLICANTS--RECIPROCITY.--

4 A. The board shall issue a registration, license
5 or certificate to a nonresident ~~[provided that]~~ applicant if
6 the applicant's resident state's requirements for
7 registration, licensing or certification are [the same or
8 similar to the requirements] in compliance with 12 U.S.C.
9 1101-1125 and the applicant holds a valid certificate from a
10 state whose requirements for certification or licensing meet
11 or exceed the licensure standards set forth in the Real
12 Estate Appraisers Act [In the event that the other state's
13 requirements are not similar or cannot be verified, a
14 qualifying nonresident applicant may become a state
15 apprentice real estate appraiser, state licensed real estate
16 appraiser or state certified real estate appraiser by
17 conforming to all conditions of the Real Estate Appraisers
18 Act] and the reciprocal state is in compliance with the
19 appraisal subcommittee.

20 B. Examinations taken in other states are
21 acceptable in New Mexico at the board's discretion if the
22 exam was at the appropriate level and approved by the
23 appraisal foundation. ~~[If it is beneficial to New Mexico~~
24 ~~state apprentice real estate appraisers, state licensed real~~
25 ~~estate appraisers or state certified real estate appraisers,~~

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1 ~~the board may negotiate agreements with other states allowing~~
2 ~~reciprocity.]~~

3 C. The registration, license or certificate shall
4 be issued upon payment of the application fee, verification
5 that the applicant has complied with ~~[his]~~ the applicant's
6 resident state's current education requirements and the
7 filing with the board of a license history and verification
8 of good standing issued by the licensing board of the other
9 state.

10 ~~[B. The applicant shall file an irrevocable~~
11 ~~consent that suits and actions may be commenced against him~~
12 ~~in the proper court of any county of this state in which a~~
13 ~~cause of action may arise from his actions as a state~~
14 ~~apprentice real estate appraiser, state licensed real estate~~
15 ~~appraiser or state certified real estate appraiser or in~~
16 ~~which the plaintiff may reside, by the service of any~~
17 ~~processes or pleadings authorized by the laws of this state~~
18 ~~on the board, the consent stipulating and agreeing that such~~
19 ~~service of processes or pleadings on the board shall be taken~~
20 ~~and held in all courts to be as valid and binding as if~~
21 ~~personal service has been made upon the applicant in New~~
22 ~~Mexico. In case any process or pleading mentioned in the~~
23 ~~case is served upon the board, it shall be by duplicate~~
24 ~~copies, one of which shall be filed in the office of the~~
25 ~~board and the other immediately forwarded by registered mail~~

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1 to the nonresident state apprentice real estate appraiser,
2 state licensed real estate appraiser or state certified real
3 estate appraiser to whom the processes or pleadings are
4 directed.]"

5 SECTION 18. Section 61-30-21 NMSA 1978 (being Laws
6 1990, Chapter 75, Section 21, as amended) is amended to read:

7 "61-30-21. TEMPORARY PRACTICE.--

8 A. The board shall recognize, on a temporary
9 basis, the registration, certification or license of a real
10 estate appraiser issued by another state if:

11 (1) the real estate appraiser's business is
12 of a temporary nature and certified by the real estate
13 appraiser not to exceed six months; and

14 (2) the real estate appraiser registers the
15 temporary practice with the board.

16 B. The applicant or any person registering with
17 the board for temporary practice shall file an irrevocable
18 consent that suits and actions may be commenced against [him]
19 the applicant in the proper court of any county of this state
20 in which a cause of action may arise from [his] the
21 applicant's actions as [~~a state apprentice real estate~~] an
22 appraiser trainee, a state licensed residential real estate
23 appraiser or a state certified real estate appraiser or in
24 which the plaintiff may reside, by the service of any
25 processes or pleadings authorized by the laws of this state

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1 on the board, the consent stipulating and agreeing that such
2 service of processes or pleadings on the board shall be taken
3 and held in all courts to be as valid and binding as if
4 personal service had been made upon the applicant in New
5 Mexico. [~~In case any~~] If a process or pleading mentioned in
6 the case is served upon the board, it shall be by duplicate
7 copies, one of which shall be filed in the office of the
8 board and the other immediately forwarded by registered mail
9 to the nonresident [~~state apprentice real estate~~] appraiser
10 trainee, state licensed residential real estate appraiser or
11 state certified real estate appraiser to whom the processes
12 or pleadings are directed."

13 SECTION 19. Section 61-30-22 NMSA 1978 (being Laws
14 1990, Chapter 75, Section 22, as amended) is amended to read:

15 "61-30-22. CIVIL AND CRIMINAL PENALTIES--INJUNCTIVE
16 RELIEF.--

17 A. Any person who violates any provision of the
18 Real Estate Appraisers Act is guilty of a misdemeanor and
19 shall be punished by a fine of not more than one thousand
20 dollars (\$1,000) or by imprisonment for not more than six
21 months or both.

22 B. In the event any person has engaged in or
23 proposes to engage in any act or practice violating a
24 provision of the Real Estate Appraisers Act, the attorney
25 general or the district attorney of the judicial district in

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1 which the person resides or the judicial district in which
2 the violation has occurred or will occur shall, upon
3 application of the board, maintain an action in the name of
4 the state to prosecute the violation or to enjoin the
5 proposed act or practice.

6 C. The board may impose a civil penalty in an
7 amount not to exceed one thousand dollars (\$1,000) for each
8 violation of the Real Estate Appraisers Act and assess
9 administrative costs for any investigation and administrative
10 or other proceedings against ~~[a state apprentice real estate]~~
11 an appraiser trainee, a state licensed residential real
12 estate appraiser or a state certified real estate appraiser
13 or against any person who is found, through an administrative
14 proceeding, to have acted without a license. Appeals from
15 decisions of the board shall be taken as provided in Section
16 39-3-1.1 NMSA 1978."

17 SECTION 20. A new section of the Real Estate Appraisers
18 Act is enacted to read:

19 "[NEW MATERIAL] AUTOMATED VALUATION MODELS USED TO
20 ESTIMATE COLLATERAL VALUE FOR MORTGAGE LENDING PURPOSES.--

21 A. Automated valuation models shall adhere to
22 quality control standards designed to:

23 (1) ensure a high level of confidence in the
24 estimates produced by automated valuation models;

25 (2) protect against the manipulation of

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1 data;

2 (3) seek to avoid conflicts of interest;

3 (4) require random sample testing and
4 reviews; and

5 (5) account for any other such factor that
6 the board determines to be appropriate.

7 B. The board, in consultation with the staff of
8 the appraisal subcommittee and the appraisal standards board
9 of the appraisal foundation, shall promulgate rules to
10 implement the quality control standards required under this
11 section."

12 SECTION 21. A new section of the Real Estate Appraisers
13 Act is enacted to read:

14 "[NEW MATERIAL] BROKER PRICE OPINIONS.--In conjunction
15 with the purchase of a consumer's principal dwelling, broker
16 price opinions shall not be used as the primary basis to
17 determine the value of a piece of property for the purpose of
18 a loan origination of a residential mortgage loan secured by
19 such piece of property."

20 SECTION 22. A new section of the Real Estate Appraisers
21 Act is enacted to read:

22 "[NEW MATERIAL] CRIMINAL BACKGROUND CHECKS.--

23 A. The board may adopt rules that provide for
24 criminal background checks for all registrants, certified
25 licensees and licensees to include:

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1 (1) requiring criminal history background
2 checks of applicants for registration, certified licensure or
3 licensure pursuant to the Real Estate Appraisers Act;

4 (2) requiring applicants for registration,
5 or certified licensure or licensure to be fingerprinted;

6 (3) providing for an applicant who has been
7 denied registration or certified licensure or licensure to
8 inspect or challenge the validity of the background check
9 record;

10 (4) establishing a fingerprint and
11 background check fee not to exceed fees as determined by the
12 department of public safety to be paid by the applicant; and

13 (5) providing for submission of an
14 applicant's fingerprint cards to the federal bureau of
15 investigation to conduct a national criminal history
16 background check and to the department of public safety to
17 conduct a state criminal history check.

18 B. Arrest record information received from the
19 department of public safety and the federal bureau of
20 investigation shall be privileged and shall not be disclosed
21 to persons not directly involved in the decision affecting
22 the applicant.

23 C. Electronic live fingerprint scans may be used
24 when conducting criminal history background checks."