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SENATE BILL 245

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Mary Jane M. Garcia

AN ACT

RELATING TO REAL ESTATE OVERSIGHT; ENACTING THE REAL ESTATE BROKERS, APPRAISERS AND INTERIOR DESIGNERS ACT; CREATING THE REAL ESTATE BROKERS, APPRAISERS AND INTERIOR DESIGNERS BOARD; PROVIDING POWERS AND DUTIES; ABOLISHING THE REAL ESTATE APPRAISERS BOARD, THE NEW MEXICO REAL ESTATE COMMISSION AND THE INTERIOR DESIGN BOARD.

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

Section 1. SHORT TITLE.--This act may be cited as the "Real Estate Brokers, Appraisers and Interior Designers Act".

Section 2. DEFINITIONS AND EXCEPTIONS.--

A. As used in the Real Estate Brokers, Appraisers and Interior Designers Act:

(1) "agency relationship" means the fiduciary relationship created solely by an express written agency

1 agreement between a person and a brokerage, authorizing the
2 brokerage to act as an agent for the person according to the
3 scope of authority granted in that express written agreement
4 for real estate services subject to the jurisdiction of the
5 board;

6 (2) "agent" means the brokerage authorized,
7 solely by means of an express written agreement, to act as a
8 fiduciary for a person and to provide real estate services that
9 are subject to the jurisdiction of the board; in the case of an
10 associate broker, "agent" means the person who has been
11 authorized to act by that associate broker's qualifying broker;

12 (3) "appraisal" or "real estate appraisal"
13 means an analysis, opinion or conclusion prepared by a real
14 estate appraiser relating to the nature, quality, value or
15 utility of specified interests in or aspects of identified real
16 estate or real property, for or in expectation of compensation,
17 and includes the following:

18 (a) a valuation, analysis, opinion or
19 conclusion prepared by a real estate appraiser that estimates
20 the value of identified real estate or real property; and

21 (b) an analysis or study of real estate
22 or real property other than estimating value;

23 (4) "appraisal assignment" means an engagement
24 for which a real estate appraiser is employed or retained to
25 act or would be perceived by third parties or the public as

1 acting as a disinterested third party in rendering an unbiased
2 appraisal;

3 (5) "appraisal foundation" means the appraisal
4 foundation incorporated as an Illinois not-for-profit
5 corporation on November 30, 1987 and to which reference is made
6 in the federal real estate appraisal reform amendments;

7 (6) "appraisal report" means any
8 communication, written or oral, of an appraisal regardless of
9 title or designation and all other reports communicating an
10 appraisal;

11 (7) "appraiser's license" means a qualifying
12 appraiser's license issued by the board;

13 (8) "associate broker" means a person who, for
14 compensation or other valuable consideration, is associated
15 with or engaged under contract by a qualifying broker to
16 participate in an activity described in Paragraph (10) of this
17 subsection or to carry on the qualifying broker's business as a
18 whole or partial vocation;

19 (9) "board" means the New Mexico real estate
20 brokers, appraisers and interior designers board;

21 (10) "broker" or "qualifying broker" means a
22 person who for compensation or other consideration from
23 another:

24 (a) lists, sells or offers to sell real
25 estate; buys or offers to buy real estate; or negotiates the

1 purchase, sale or exchange of real estate or options on real
2 estate;

3 (b) leases, rents or auctions or offers
4 to lease, rent or auction real estate;

5 (c) advertises or makes representation
6 as being engaged in the business of buying, selling,
7 exchanging, renting, leasing, auctioning or dealing with
8 options on real estate for others as a whole or partial
9 vocation; or

10 (d) engages in the business of charging
11 an advance fee or contracting for collection of a fee in
12 connection with a contract under which the broker or qualifying
13 broker undertakes primarily to promote the sale of real estate
14 through its listing in a publication issued primarily for that
15 purpose or for the purpose of referral of information
16 concerning real estate to brokers, qualifying brokers or
17 associate brokers;

18 (11) "brokerage" means a licensed qualifying
19 broker and the licensed real estate business represented by the
20 qualifying broker and its affiliated licensees;

21 (12) "brokerage relationship" means the legal
22 or contractual relationship between a person and a brokerage in
23 a real estate transaction subject to the jurisdiction of the
24 board;

25 (13) "broker's license" means a qualifying

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1 broker's license or an associate broker's license issued by the
2 board;

3 (14) "certified appraisal" or "certified
4 appraisal report" means an appraisal or appraisal report given
5 or signed and certified as such by a state certified real
6 estate appraiser and shall include an indication of which type
7 of certification is held and shall be deemed to represent to
8 the public that it meets the appraisal standards defined in the
9 Real Estate Brokers, Appraisers and Interior Designers Act;

10 (15) "client" means a buyer, seller, landlord
11 or tenant who has entered into an express written agreement
12 with a brokerage for real estate services subject to the
13 jurisdiction of the board;

14 (16) "customer" means a buyer, seller,
15 landlord or tenant who uses real estate services without
16 entering into an express written agreement with a brokerage
17 subject to the jurisdiction of the board;

18 (17) "federal real estate appraisal reform
19 amendments" means the Federal Financial Institutions
20 Examination Council Act of 1978, as amended by Title 11, Real
21 Estate Appraisal Reform Amendments;

22 (18) "general certificate" or "general
23 certification" means a certificate or certification for
24 appraisals of all types of real estate issued pursuant to the
25 provisions of the Real Estate Brokers, Appraisers and Interior

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1 Designers Act and the federal real estate appraisal reform
2 amendments;

3 (19) "interior design" means services that do
4 not necessarily require performance by an architect, such as
5 administering contracts for fabrication, procurement or
6 installation in the implementation of designs, drawings and
7 specifications for any interior design project and
8 consultations, studies, drawings and specifications in
9 connection with reflected ceiling plans, space utilization,
10 furnishings or the fabrication of nonstructural elements within
11 and surrounding interior spaces of buildings, but specifically
12 excluding mechanical and electrical systems, except for
13 specifications of fixtures and their location within interior
14 spaces;

15 (20) "licensed interior designer" or "licensed
16 designer" means a person licensed by the board to perform
17 interior design services;

18 (21) "real estate" or "real property" means
19 land, improvements, leaseholds and other interests in real
20 property that are less than a fee simple ownership interest,
21 whether tangible or intangible; over or under land, including
22 structures, fixtures and other improvements and interests that
23 by custom, usage or law pass with a conveyance of land, though
24 not described in a contract of sale or instrument of
25 conveyance, and includes parcels with or without upper and

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1 lower boundaries and spaces that may be filled with air;

2 (22) "real estate appraiser" means any person
3 who engages in real estate appraisal activity in expectation of
4 compensation;

5 (23) "real estate salesperson" means a person
6 who, for compensation or other valuable consideration, is
7 associated with or engaged under contract by a broker to
8 participate in an activity described in Paragraph (10) of this
9 subsection or to carry on the broker's business as a whole or
10 partial vocation;

11 (24) "residential certificate" or "residential
12 certification" means a certificate or certification, limited to
13 appraisals of residential real estate or residential real
14 property without regard to the complexity of the transaction,
15 issued pursuant to the provisions of the Real Estate Brokers,
16 Appraisers and Interior Designers Act and as provided under the
17 terms of the federal real estate appraisal reform amendments;

18 (25) "residential real estate" or "residential
19 real property" means real estate designed and suited or
20 intended for use and occupancy by one to four families,
21 including use and occupancy of manufactured housing;

22 (26) "specialized services" means those
23 services that do not fall within the definition of an appraisal
24 assignment and may include specialized financing or market
25 analyses and feasibility studies that may incorporate estimates

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

9 (27) "state certified appraisal" means any
10 appraisal that is identified as a state certified appraisal
11 report or is in any way described as being prepared by a state
12 certified real estate appraiser;

13 (28) "state certified real estate appraiser"
14 means a person who holds a current, valid general certificate
15 or a current, valid residential certificate issued pursuant to
16 the provisions of the Real Estate Brokers, Appraisers and
17 Interior Designers Act;

18 (29) "state licensed real estate appraiser"
19 means a person who holds a current, valid appraiser's license
20 issued pursuant to the provisions of the Real Estate Brokers,
21 Appraisers and Interior Designers Act;

22 (30) "state apprentice real estate appraiser"
23 means a person who holds a current, valid registration issued
24 pursuant to the provisions of the Real Estate Brokers,
25 Appraisers and Interior Designers Act; and

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1 (31) "transaction broker" means a qualifying
2 broker, associate broker or brokerage that provides real estate
3 services without entering into an agency relationship.

4 B. A single act of a person in performing or
5 attempting to perform an activity described in Paragraph (10)
6 of Subsection A of this section makes the person a qualifying
7 broker. A single act of a person in performing or attempting
8 to perform an activity described in Paragraph (8) of Subsection
9 A of this section makes the person an associate broker.

10 C. The provisions of the Real Estate Brokers,
11 Appraisers and Interior Designers Act do not apply to:

12 (1) a person who as owner or lessor performs
13 any of the activities included in this section with reference
14 to property owned or leased by the person, the employees of the
15 owner or lessor or the employees of a qualifying broker acting
16 on behalf of the owner or lessor, with respect to the property
17 owned or leased, if the acts are performed in the regular
18 course of or incident to the management of the property and the
19 investments, except when the sale or offering for sale or the
20 lease or offering for lease of the property constitutes a
21 subdivision containing one hundred or more parcels;

22 (2) isolated or sporadic transactions not
23 exceeding two transactions annually in which a person acts as
24 attorney-in-fact under a duly executed power of attorney
25 delivered by an owner authorizing the person to finally

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1 consummate and to perform under any contract the sale, leasing
2 or exchange of real estate on behalf of the owner; and the
3 owner or attorney-in-fact has not used a power of attorney for
4 the purpose of evading the provisions of the Real Estate
5 Brokers, Appraisers and Interior Designers Act;

6 (3) transactions in which a person acts as
7 attorney-in-fact under a duly executed power of attorney
8 delivered by an owner related to the attorney-in-fact within
9 the fourth degree of consanguinity or closer, authorizing the
10 person to finally consummate and to perform under any contract
11 for the sale, leasing or exchange of real estate on behalf of
12 the owner;

13 (4) the services rendered by an attorney at
14 law in the performance of the attorney's duties as an attorney
15 at law;

16 (5) a person acting in the capacity of a
17 receiver, trustee in bankruptcy, administrator or executor, a
18 person selling real estate pursuant to an order of any court or
19 a trustee acting under a trust agreement, deed of trust or will
20 or the regular salaried employee of a trustee;

21 (6) the activities of a salaried employee of a
22 governmental agency acting within the scope of employment; or

23 (7) persons who deal exclusively in mineral
24 leases or the sale or purchase of mineral rights or royalties
25 in any case in which the fee to the land or the surface rights

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1 are in no way involved in the transaction.

2 Section 3. BOARD CREATED--QUALIFICATIONS.--

3 A. The "real estate brokers, appraisers and
4 interior designers board" is created in the executive branch.

5 B. The board consists of nine members and is
6 administratively attached to the regulation and licensing
7 department.

8 C. The board members shall be appointed by the
9 governor. Members shall serve for a period of five years or
10 until their successors are appointed and qualified. The
11 governor may remove a member for cause. In the event of
12 vacancies, the governor shall appoint members to complete
13 unexpired terms. Members may be appointed for no more than two
14 five-year terms.

15 D. Board members shall have been residents of New
16 Mexico for three consecutive years immediately prior to their
17 appointment.

18 E. The board members shall include two associate
19 brokers or qualifying brokers licensed in New Mexico, two real
20 estate appraisers licensed or certified in New Mexico, one
21 person representing lenders or their assignees engaged in the
22 business of lending funds secured by mortgages, two licensed
23 interior designers and two members chosen to represent the
24 public, which members shall not have been licensed or certified
25 as a real estate broker, real estate appraiser or interior

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1 designer.

2 F. The board shall organize by electing a
3 president, vice president and secretary from its members. A
4 majority of the board constitutes a quorum and may exercise all
5 powers and duties of the board.

6 G. The board shall meet at least once each calendar
7 quarter at such time and place as may be designated by the
8 board president, and special meetings may be held upon five
9 days' written notice to each of the board members by the board
10 president.

11 H. Each member of the board is entitled to receive
12 per diem and mileage as provided in the Per Diem and Mileage
13 Act and shall receive no other compensation, perquisite or
14 allowance.

15 Section 4. BOARD--POWERS AND DUTIES.--

16 A. The secretary of the board shall keep a record
17 of its proceedings; a register of persons licensed as associate
18 brokers and qualifying brokers, appraisers and interior
19 designers, showing the name and place of business of each and
20 the date and number of each person's license; and a record of
21 all licenses issued, denied, suspended or revoked. This record
22 shall be open to public inspection at all reasonable times.

23 B. The board shall possess all the powers and
24 perform all the duties of the board prescribed by the Real
25 Estate Brokers, Appraisers and Interior Designers Act and as

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1 otherwise provided by law, and the board is expressly vested
2 with the power and authority to make and enforce rules to carry
3 out the provisions of that act. Prior to a final action on a
4 proposed change or amendment to the rules of the board, the
5 board shall publish notice of the proposed action in its
6 official publication, distribute the publication to each active
7 licensee and give the time and place for a public hearing on
8 the proposed changes. The hearing shall be held at least
9 thirty days prior to a proposed final action. Changes or
10 amendments to the rules shall be filed in accordance with the
11 procedures of the State Rules Act and shall become effective
12 thirty days after notification to all active licensees of the
13 filing of the changes or amendments.

14 C. The board shall:

15 (1) establish educational programs and
16 research projects related to the appraisal of real estate;

17 (2) establish the administrative procedures
18 for processing applications and issuing registrations, licenses
19 and certificates to persons who qualify to be state apprentice
20 real estate appraisers, state licensed real estate appraisers
21 or state certified real estate appraisers;

22 (3) receive, review and approve applications
23 for state apprentice real estate appraisers, state licensed
24 real estate appraisers and each category of state certified
25 real estate appraisers and, for state licensed or state

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1 certified real estate appraisers, prepare or supervise the
2 preparation of examination questions and answers and supervise
3 grading of examinations and enter into contracts with one or
4 more educational testing services or organizations for such
5 examinations;

6 (4) define the extent and type of educational
7 experience, appraisal experience and equivalent experience that
8 will meet the requirements for registration, licensing and
9 certification under the Real Estate Brokers, Appraisers and
10 Interior Designers Act after considering generally recognized
11 appraisal practices and set minimum requirements for education
12 and experience;

13 (5) provide for continuing education programs
14 for the renewal of registrations, appraiser's licenses and
15 certifications that will meet the requirements provided in the
16 Real Estate Brokers, Appraisers and Interior Designers Act and
17 set minimum requirements;

18 (6) adopt standards to define the education
19 programs that will meet the requirements of the Real Estate
20 Brokers, Appraisers and Interior Designers Act and will
21 encourage conducting programs at various locations throughout
22 the state;

23 (7) adopt standards for the development and
24 communication of real estate appraisals provided in the Real
25 Estate Brokers, Appraisers and Interior Designers Act and adopt

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1 rules explaining and interpreting the standards after
2 considering generally recognized appraisal practices;

3 (8) adopt a code of professional
4 responsibility for state apprentice real estate appraisers,
5 state licensed real estate appraisers and state certified real
6 estate appraisers;

7 (9) comply with annual reporting requirements
8 and other requirements set forth in the federal real estate
9 appraisal reform amendments;

10 (10) maintain a registry of the names and
11 addresses of the persons who hold current registrations,
12 appraiser's licenses and certificates issued under the Real
13 Estate Brokers, Appraisers and Interior Designers Act;

14 (11) establish procedures for disciplinary
15 action in accordance with the Uniform Licensing Act against any
16 applicant or holder of a registration, appraiser's license or
17 certificate for violations of that act and any rules adopted
18 pursuant to provisions of that act; and

19 (12) perform such other functions and duties
20 as may be necessary to carry out the provisions of the Real
21 Estate Brokers, Appraisers and Interior Designers Act.

22 D. The board:

23 (1) shall administer, coordinate and enforce
24 the provisions of the Real Estate Brokers, Appraisers and
25 Interior Designers Act. The board may investigate allegations

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1 of violations of the provisions of the Real Estate Brokers,
2 Appraisers and Interior Designers Act;

3 (2) shall adopt rules to carry out the
4 purposes and policies of the Real Estate Brokers, Appraisers
5 and Interior Designers Act, including rules relating to
6 professional conduct; standards of performance and professional
7 examination and licensure; reasonable license, application,
8 renewal and late fees; and the establishment of ethical
9 standards of practice for licensed interior designers in New
10 Mexico;

11 (3) shall require a licensed interior
12 designer, as a condition of the renewal of the license, to
13 undergo continuing education requirements as set forth in the
14 Real Estate Brokers, Appraisers and Interior Designers Act;

15 (4) shall maintain an official roster showing
16 the name, address and license number of each licensed interior
17 designer pursuant to the Real Estate Brokers, Appraisers and
18 Interior Designers Act;

19 (5) shall conduct hearings and keep records
20 and minutes necessary to carry out its functions;

21 (6) may adopt a common seal for use by
22 licensed interior designers; and

23 (7) shall do all things reasonable and
24 necessary to carry out the purposes of the Real Estate Brokers,
25 Appraisers and Interior Designers Act.

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1 Section 5. ADDITIONAL POWERS OF THE BOARD--CONTINUING
2 EDUCATION PROGRAMS--MINIMUM REQUIREMENTS.--The board shall
3 adopt rules providing for continuing education courses in
4 selling, leasing or managing residential, commercial and
5 industrial property as well as courses in basic real estate law
6 and practice, and other courses prescribed by the board. The
7 rules shall require that every licensee except licensees who
8 are sixty-five years of age or older and who have a minimum of
9 twenty years' continuously licensed experience in the selling,
10 leasing or managing of real property, as a condition of the
11 person's broker's license or appraiser's license renewal, shall
12 successfully complete thirty classroom hours of instruction
13 every three years in courses approved by the board. The rules
14 may prescribe areas of specialty or expertise and may require
15 that part of the classroom instruction be devoted to courses in
16 the area of a licensee's specialty or expertise.

17 Section 6. ADDITIONAL POWERS OF THE BOARD--PROFESSIONAL
18 LIABILITY INSURANCE--MINIMUM COVERAGE.--

19 A. In addition to the powers and duties granted to
20 the board pursuant to the provisions of the Real Estate
21 Brokers, Appraisers and Interior Designers Act, the board may
22 adopt rules that require professional liability insurance
23 coverage and may establish the minimum terms and conditions of
24 coverage, including limits of coverage and permitted
25 exceptions. If adopted by the board, the rules shall require

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1 every applicant for an active broker's license or appraiser's
2 license and licensee who applies for renewal of an active
3 broker's license or appraiser's license to provide the board
4 with satisfactory evidence that the applicant or licensee has
5 professional liability insurance coverage that meets the
6 minimum terms and conditions required by board rule.

7 B. The board may solicit sealed, competitive
8 proposals from insurance carriers to provide a group
9 professional liability insurance policy that complies with the
10 terms and conditions established by board rule. The board may
11 approve one or more policies that comply with the board rules;
12 provided that the maximum annual premium shall not exceed three
13 hundred dollars (\$300) for a licensee, that the minimum
14 coverage shall not be less than one hundred thousand dollars
15 (\$100,000) for an individual claim and not less than a five-
16 hundred-thousand-dollar (\$500,000) aggregate limit per policy
17 and that the deductible shall not be greater than one thousand
18 dollars (\$1,000).

19 C. Rules adopted by the board shall permit an
20 active licensee to satisfy any requirement for professional
21 liability insurance coverage by purchasing an individual
22 policy.

23 D. Rules adopted by the board shall provide that
24 there shall not be a requirement for a licensee to have
25 professional liability insurance coverage during a period when

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1 a group policy, as provided in Subsection B of this section, is
2 not in effect.

3 Section 7. ADDITIONAL POWERS OF THE BOARD--CRIMINAL
4 BACKGROUND CHECKS.--The board may require broker's license or
5 appraiser's license applicants, as a condition of licensure, to
6 submit to criminal background checks.

7 Section 8. PROHIBITION.--

8 A. It is unlawful for a person to engage in the
9 business of, act in the capacity of, advertise or display in
10 any manner as or otherwise assume to engage in the business of,
11 or act as, an associate broker or a qualifying broker within
12 this state without a broker's license issued by the board. A
13 person who engages in the business or acts in the capacity of
14 an associate broker or a qualifying broker in this state,
15 except as otherwise provided in the Real Estate Brokers,
16 Appraisers and Interior Designers Act, with or without a New
17 Mexico broker's license, has thereby submitted to the
18 jurisdiction of the state and to the administrative
19 jurisdiction of the board and is subject to all penalties and
20 remedies available for a violation of any provision of the Real
21 Estate Brokers, Appraisers and Interior Designers Act.

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

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1 licensed real estate appraiser or state certified real estate
2 appraiser without an appraiser's license issued by the board.
3 A person who engages in the business or acts in the capacity of
4 a state apprentice real estate appraiser, state licensed real
5 estate appraiser or 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 Section 9. MEETINGS OF THE BOARD.--The board shall meet
11 at least once each calendar quarter at such time and place as
12 may be designated by the board president, and special meetings
13 may be held upon five days' written notice to each of the board
14 members by the board president.

15 Section 10. REIMBURSEMENT AND EXPENSES.--Each member of
16 the board is entitled to receive per diem and mileage as
17 provided in the Per Diem and Mileage Act and shall receive no
18 other compensation, perquisite or allowance.

19 Section 11. REAL ESTATE BROKERS, APPRAISERS AND INTERIOR
20 DESIGNERS FUND CREATED.--

21 A. The "real estate brokers, appraisers and
22 interior designers fund" is created in the state treasury. The
23 fund shall be invested by the state treasurer as other state
24 funds are invested. Income earned from investment of the fund
25 shall be credited to the real estate brokers, appraisers and

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1 interior designers fund. The fund shall not revert in any
2 fiscal year.

3 B. The board shall deposit all money received by it
4 from fees in accordance with the provisions of the Real Estate
5 Brokers, Appraisers and Interior Designers Act with the state
6 treasurer, who shall keep that money in the real estate
7 brokers, appraisers and interior designers fund, and money so
8 deposited in that fund is appropriated to the board for the
9 purpose of carrying out the provisions of the Real Estate
10 Brokers, Appraisers and Interior Designers Act and shall be
11 paid out of the fund upon the vouchers of the secretary or the
12 secretary's designee; provided that the total fees and charges
13 collected and paid into the state treasury and any money so
14 deposited shall be expended only for the purposes authorized by
15 the Real Estate Brokers, Appraisers and Interior Designers Act.

16 C. All fees received by the board pursuant to the
17 Real Estate Brokers, Appraisers and Interior Designers Act and
18 the Appraisal Management Company Registration Act shall be
19 deposited with the state treasurer to the credit of the real
20 estate brokers, appraisers and interior designers fund.

21 D. Money in the real estate brokers, appraisers and
22 interior designers fund shall be used by the board to meet
23 necessary expenses incurred in the enforcement of the
24 provisions of the Real Estate Brokers, Appraisers and Interior
25 Designers Act and the Appraisal Management Company Registration

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1 Act, in carrying out the duties imposed by the Real Estate
2 Brokers, Appraisers and Interior Designers Act and the
3 Appraisal Management Company Registration Act and for the
4 promotion of education and standards for real estate brokers,
5 appraisers and interior designers in this state.

6 Section 12. BROKER'S LICENSE FEES--DISPOSITION.--

7 A. The following fees shall be established and
8 charged by the board and paid into the real estate brokers,
9 appraisers and interior designers fund:

10 (1) for each examination, a fee not to exceed
11 ninety-five dollars (\$95.00);

12 (2) for each qualifying broker's license
13 issued, a fee not to exceed two hundred seventy dollars (\$270)
14 and for each renewal thereof, a fee not to exceed two hundred
15 seventy dollars (\$270);

16 (3) for each associate broker's license
17 issued, a fee not to exceed two hundred seventy dollars (\$270)
18 and for each renewal thereof, a fee not to exceed two hundred
19 seventy dollars (\$270);

20 (4) subject to the provisions of Paragraph
21 (10) of this subsection, for each change of place of business
22 or change of employer or contractual associate, a transfer fee
23 not to exceed twenty dollars (\$20.00);

24 (5) for each duplicate broker's license, where
25 the license is lost or destroyed and affidavit is made thereof,

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1 a fee not to exceed twenty dollars (\$20.00);

2 (6) for each broker's license history, a fee
3 not to exceed twenty-five dollars (\$25.00);

4 (7) for copying of documents by the board, a
5 fee not to exceed one dollar (\$1.00) per copy;

6 (8) for each broker's license law and rules
7 booklet, a fee not to exceed ten dollars (\$10.00) per booklet;

8 (9) for each hard copy or electronic list of
9 licensed associate brokers and qualifying brokers, a fee not to
10 exceed twenty dollars (\$20.00);

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

23 (11) for each application to the board to
24 become an approved sponsor of pre-licensing and continuing
25 education courses, a fee not to exceed five hundred dollars

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1 (\$500) and for each renewal thereof, a fee not to exceed five
2 hundred dollars (\$500);

3 (12) for each application to the board to
4 become an approved instructor of pre-licensing and continuing
5 education courses, a fee not to exceed seventy dollars (\$70.00)
6 per course; and

7 (13) for each application to the board to
8 renew certification as a board-approved instructor, a fee not
9 to exceed one hundred dollars (\$100).

10 B. All fees set by the board shall be set by rule
11 and only after all requirements have been met as prescribed by
12 the Real Estate Brokers, Appraisers and Interior Designers Act.
13 Any changes or amendments to the rules shall be filed in
14 accordance with the State Rules Act.

15 Section 13. QUALIFICATIONS FOR BROKER'S LICENSE.--

16 A. Broker's licenses shall be granted only to
17 persons who meet the requirements for licensure prescribed by
18 law and are deemed by the board to be of good repute and
19 competent to transact the business of a qualifying broker or an
20 associate broker in a manner that safeguards the interests of
21 the public.

22 B. An applicant for a qualifying broker's license
23 or an associate broker's license shall be a legal resident of
24 the United States and have reached the age of majority. Each
25 applicant for a qualifying broker's license or an associate

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1 broker's license shall have passed the real estate examination
2 approved by the board and shall:

3 (1) furnish the board with a certificate that
4 the applicant has completed successfully ninety classroom hours
5 of instruction in basic real estate courses approved by the
6 board, thirty hours of which shall have been a broker basics
7 course; or

8 (2) furnish the board with a certificate that
9 the applicant is a duly licensed real estate broker in good
10 standing in another state; provided that the applicant has
11 successfully completed ninety classroom hours of instruction in
12 basic real estate courses approved by the board, thirty hours
13 of which shall have been a broker basics course.

14 C. An applicant for a qualifying broker's license
15 shall have been actively engaged in the real estate business as
16 an associate broker or real estate salesperson for at least two
17 of the last five years immediately preceding application for a
18 qualifying broker's license and furnish the board proof that
19 the applicant has completed successfully one hundred twenty
20 hours of pre-licensing courses, including a broker basics
21 course, approved by the board.

22 D. The board shall require the information it deems
23 necessary from every applicant to determine that applicant's
24 honesty, trustworthiness and competency. Corporations,
25 partnerships or associations may hold a qualifying broker's

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1 license issued in the name of the corporation, partnership or
2 association; provided that at least one member of the
3 partnership or association or one officer or employee of a
4 corporation who actively engages in the real estate business
5 first secures a qualifying broker's license. The broker's
6 license shall be issued in the name of the corporation,
7 partnership or association, naming the partner, associate,
8 officer or employee as qualifying broker for the corporation,
9 partnership or association.

10 Section 14. APPLICATION FOR BROKER'S LICENSE AND
11 EXAMINATION.--

12 A. An application for a broker's license to act as
13 a qualifying broker or associate broker shall be made in
14 writing to the board and shall contain such data and
15 information as may be required upon a form to be prescribed and
16 furnished by the board. The application shall be accompanied
17 by:

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

23 (2) the triennial broker's license fee
24 prescribed by the board.

25 B. In addition to proof of honesty, trustworthiness

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1 and good reputation, an applicant shall pass a written
2 examination approved by the board. The examination shall be
3 given at the times and places within the state as the board
4 shall prescribe; however, the examination shall be given not
5 fewer than two times during each calendar year. The
6 examination shall include business ethics, writing,
7 composition, arithmetic, elementary principles of land
8 economics and appraisals, a general knowledge of the statutes
9 of this state relating to deeds, mortgages, contracts of sale,
10 agency and brokerage and the provisions of the Real Estate
11 Brokers, Appraisers and Interior Designers Act.

12 C. An applicant shall not engage in the real estate
13 business until the applicant has passed the approved
14 examination, until the applicant has complied with the other
15 requirements of the Real Estate Brokers, Appraisers and
16 Interior Designers Act and until a broker's license has been
17 issued to the applicant.

18 D. Notice of passing or failing to pass the
19 examination shall be given to an applicant not later than three
20 weeks following the date of the examination.

21 E. The board may establish educational programs and
22 procure qualified personnel, facilities and materials for the
23 instruction of persons desiring to become qualifying brokers or
24 associate brokers or desiring to improve their proficiency as
25 qualifying brokers or associate brokers. The board may inspect

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1 and accredit educational programs and courses of study and may
2 establish standards of accreditation for educational programs
3 conducted in this state. The expenses incurred by the board in
4 activities authorized pursuant to this subsection shall not
5 exceed the total revenues received and accumulated by the
6 board.

7 Section 15. BROKERAGE RELATIONSHIPS--CREATION.--

8 A. For all regulated real estate transactions first
9 executed on or after January 1, 2000, no agency relationship
10 between a buyer, seller, landlord or tenant and a brokerage
11 shall exist unless the buyer, seller, landlord or tenant and
12 the brokerage agree, in writing, to the agency relationship.
13 No type of agency relationship may be assumed by a buyer,
14 seller, landlord, tenant or licensee, or created orally or by
15 implication.

16 B. A brokerage may provide real estate services to
17 a client pursuant to an express written agreement that does not
18 create an agency relationship, and no agency duties will be
19 imposed on the brokerage.

20 C. A brokerage may provide real estate services to
21 a customer without entering into an express written agreement
22 and without creating an agency relationship, and no agency
23 duties will be imposed on the brokerage.

24 D. The board shall promulgate rules governing the
25 rights of clients or customers and the rights, responsibilities

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1 and duties of a brokerage in those brokerage relationships that
2 are subject to the jurisdiction of the board.

3 Section 16. LICENSEE'S DUTIES--DISCLOSURE.--

4 A. Prior to the time a licensee generates or
5 presents any written document that has the potential to become
6 an express written agreement, the licensee shall give to a
7 prospective buyer, seller, landlord or tenant a list of the
8 licensee's duties that are in accordance with requirements
9 established by the board.

10 B. Licensees shall perform all duties that are
11 established for licensees by the board.

12 Section 17. ISSUANCE, RENEWAL AND SURRENDER OF BROKER'S
13 LICENSES.--

14 A. The board shall issue to each qualified
15 applicant a broker's license in the form and size prescribed by
16 the board.

17 B. The broker's license shall show the name and
18 address of the licensee. An associate broker's license shall
19 show the name of the qualifying broker by whom the associate
20 broker is engaged. The board shall deliver or mail the
21 broker's license of the associate broker to the qualifying
22 broker by whom the associate broker is engaged, and the
23 qualifying broker shall display the broker's license at the
24 brokerage from which the associate broker will be conducting
25 real estate business on behalf of the brokerage. The broker's

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1 license of the associate broker shall remain in the custody and
2 control of the qualifying broker as long as the associate
3 broker is engaged by that qualifying broker.

4 C. Every broker's license shall be renewed every
5 three years on or before the last day of the month following
6 the licensee's month of birth. Upon written request for
7 renewal by the licensee, the board shall certify renewal of a
8 broker's license if there is no reason or condition that might
9 warrant the refusal of the renewal of a broker's license. The
10 licensee shall provide proof of compliance with continuing
11 education requirements and pay the renewal fee. If a broker's
12 licensee has not made application for renewal of a broker's
13 license, furnished proof of compliance with continuing
14 education requirements and paid the renewal fee by the broker's
15 license renewal date, the broker's license shall expire. The
16 board may require a person whose broker's license has expired
17 to apply for a broker's license as if the person had not been
18 previously licensed under the Real Estate Brokers, Appraisers
19 and Interior Designers Act and further require that the person
20 be reexamined. The board shall require a person whose broker's
21 license has expired to pay when the person applies for a
22 broker's license, in addition to any other fee, a late fee. If
23 during a period of one year from the date the broker's license
24 expires the person or the person's spouse is either absent from
25 this state on active duty military service or the person is

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1 suffering from an illness or injury of such severity that the
2 person is physically or mentally incapable of making
3 application for a broker's license, payment of the late fee and
4 reexamination shall not be required by the board if, within
5 three months of the person's permanent return to this state or
6 sufficient recovery from illness or injury to allow the person
7 to make an application, the person makes application to the
8 board for a broker's license. A copy of that person's or that
9 person's spouse's military orders or a certificate from the
10 applicant's physician shall accompany the application. A
11 person excused by reason of active duty military service,
12 illness or injury as provided for in this subsection may make
13 application for a broker's license without imposition of the
14 late fee. All fees collected pursuant to this subsection shall
15 be disposed of in accordance with the provisions of the Real
16 Estate Brokers, Appraisers and Interior Designers Act. The
17 revocation of a qualifying broker's license automatically
18 suspends every associate broker's license granted to any person
19 by virtue of association with the qualifying broker whose
20 broker's license has been revoked, pending a change of
21 qualifying broker. Upon the naming of a new qualifying broker,
22 the suspended broker's license shall be reactivated without
23 charge if granted during the three-year renewal cycle.

24 D. A qualifying broker shall conduct brokerage
25 business under the trade name and from the brokerage address

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1 registered with the board. Every brokerage shall have a
2 qualifying broker in charge. The broker's license of the
3 qualifying broker and each associate broker associated with
4 that qualifying broker shall be prominently displayed in each
5 brokerage office. The address of the office shall be
6 designated in the qualifying broker's license, and a broker's
7 license issued shall not authorize the licensee to transact
8 real estate business at any other address. In case of removal
9 from the designated address, the licensee shall make
10 application to the board before the removal or within ten days
11 thereafter, designating the new location of the licensee's
12 office and paying the required fee, whereupon the board shall
13 issue a broker's license for the new location if the new
14 location complies with the terms of the Real Estate Brokers,
15 Appraisers and Interior Designers Act. A qualifying broker
16 shall maintain a sign at the brokerage office of such size and
17 content as the board prescribes.

18 E. When an associate broker is discharged or
19 terminates association or employment with the qualifying broker
20 with whom the associate broker is associated, the qualifying
21 broker shall deliver or mail the associate broker's license to
22 the board within forty-eight hours. The board shall hold the
23 broker's license on inactive status. It is unlawful for an
24 associate broker to perform any of the acts authorized by the
25 Real Estate Brokers, Appraisers and Interior Designers Act

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1 either directly or indirectly under authority of an inactive
2 broker's license after the associate broker's association with
3 a qualifying broker has been terminated and the associate
4 broker's license has been returned to the board until the
5 appropriate fee has been paid and the broker's license has been
6 reissued and reactivated by the board.

7 Section 18. REFUSAL, SUSPENSION OR REVOCATION OF BROKER'S
8 LICENSE FOR CAUSES ENUMERATED.--

9 A. The board may refuse to issue a broker's license
10 or may suspend, revoke, limit or condition a broker's license
11 if the applicant or licensee has by false or fraudulent
12 representations obtained a broker's license or, in performing
13 or attempting to perform any of the actions specified in the
14 Real Estate Brokers, Appraisers and Interior Designers Act, an
15 applicant or licensee has:

16 (1) made a substantial misrepresentation;
17 (2) pursued a continued and flagrant course of
18 misrepresentation; made false promises through agents,
19 salespersons, advertising or otherwise; or used any trade name
20 or insignia of membership in any real estate organization of
21 which the licensee is not a member;

22 (3) paid or received a rebate, profit,
23 compensation or commission to or from any unlicensed person,
24 except the licensee's principal or other party to the
25 transaction, and then only with that principal's written

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1 consent;

2 (4) represented or attempted to represent a
3 qualifying broker other than a qualifying broker with whom the
4 licensee is associated without the express knowledge and
5 consent of that qualifying broker;

6 (5) failed, within a reasonable time, to
7 account for or to remit any money coming into the licensee's
8 possession that belongs to others, commingled funds of others
9 with the licensee's own or failed to keep funds of others in an
10 escrow or trustee account or failed to furnish legible copies
11 of all listing and sales contracts to all parties executing
12 them;

13 (6) been convicted in any court of competent
14 jurisdiction of a felony or any offense involving moral
15 turpitude;

16 (7) employed or compensated directly or
17 indirectly a person for performing any of the acts regulated by
18 the Real Estate Brokers, Appraisers and Interior Designers Act
19 who is not a licensed qualifying broker or an associate broker;
20 provided, however, that a qualifying broker may pay a
21 commission to a qualifying broker of another state; provided
22 further that the nonresident broker shall not conduct in this
23 state any of the negotiations for which a fee, compensation or
24 commission is paid except in cooperation with a licensed
25 qualifying broker of this state;

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

25 (9) failed, if an associate broker, to place

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1 as soon after receipt as is practicably possible in the custody
2 of the associate broker's qualifying broker, after securing
3 signatures of all parties to the transaction, any deposit money
4 or other money entrusted to the associate broker by any person
5 dealing with the associate broker as the representative of the
6 qualifying broker;

7 (10) violated a provision of the Real Estate
8 Brokers, Appraisers and Interior Designers Act or a rule
9 promulgated by the board;

10 (11) committed an act, whether of the same or
11 different character from that specified in this subsection,
12 that is related to dealings as a qualifying broker or an
13 associate broker and that constitutes or demonstrates bad
14 faith, incompetency, untrustworthiness, impropriety, fraud,
15 dishonesty, negligence or any unlawful act; or

16 (12) been the subject of disciplinary action
17 as a licensee while licensed to practice real estate in another
18 jurisdiction, territory or possession of the United States or
19 another country.

20 B. An unlawful act or violation of the Real Estate
21 Brokers, Appraisers and Interior Designers Act by an associate
22 broker, employee, partner or associate of a qualifying broker
23 shall not be cause for the revocation of a broker's license of
24 the qualifying broker unless it appears to the satisfaction of
25 the board that the qualifying broker had guilty knowledge of

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1 the unlawful act or violation.

2 Section 19. PROVISION FOR HEARING BEFORE SUSPENSION OR
3 REVOCATION OF BROKER'S LICENSE.--The board shall, before
4 suspending or revoking any broker's license, set the matter
5 down for a hearing pursuant to the provisions of the Uniform
6 Licensing Act.

7 Section 20. MAINTENANCE OF LIST OF LICENSEES.--The board
8 shall maintain a list of the names and addresses of all
9 licensees licensed by it under the provisions of the Real
10 Estate Brokers, Appraisers and Interior Designers Act and of
11 all persons whose broker's license has been suspended or
12 revoked within that year, together with such other information
13 relative to the enforcement of the provisions of the Real
14 Estate Brokers, Appraisers and Interior Designers Act as it may
15 deem of interest to the public. The board shall also maintain
16 a statement of all funds received and a statement of all
17 disbursements, and copies of the statements shall be mailed by
18 the board to any person in this state upon request.

19 Section 21. SUIT BY QUALIFYING OR ASSOCIATE BROKER.--No
20 action for the collection of a commission or compensation
21 earned by any person as a qualifying broker or an associate
22 broker required to be licensed pursuant to the provisions of
23 the Real Estate Brokers, Appraisers and Interior Designers Act
24 shall be maintained in the courts of the state unless such
25 person was a duly licensed qualifying broker or associate

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1 broker at the time the alleged cause of action arose. In any
2 event, suit against a member of the public as distinguished
3 from any person licensed under the Real Estate Brokers,
4 Appraisers and Interior Designers Act shall be maintained only
5 in the name of the qualifying broker.

6 Section 22. PENALTY--INJUNCTIVE RELIEF.--

7 A. Any person who violates any provision of the
8 Real Estate Brokers, Appraisers and Interior Designers Act is
9 guilty of a misdemeanor and shall be punished by a fine of not
10 more than five hundred dollars (\$500) or by imprisonment for
11 not more than six months or both; any corporation or business
12 association that violates any provision of the Real Estate
13 Brokers, Appraisers and Interior Designers Act shall be
14 punished by a fine of not more than one thousand dollars
15 (\$1,000).

16 B. In the event that any person, business
17 association or corporation has engaged or proposes to engage in
18 any act or practice that violates a provision of the Real
19 Estate Brokers, Appraisers and Interior Designers Act, the
20 attorney general or the district attorney of the judicial
21 district in which the person resides or the judicial district
22 in which the violation has occurred or will occur shall, upon
23 application of the board, maintain an action in the name of the
24 state to prosecute the violation or to enjoin the proposed act
25 or practice.

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1 C. In any action brought under Subsection B of this
2 section, if the court finds that a person is engaged or has
3 willfully engaged in any act or practice that violates a
4 provision of the Real Estate Brokers, Appraisers and Interior
5 Designers Act, the attorney general or the district attorney of
6 the judicial district in which the person resides or the
7 judicial district in which the violation has occurred or is
8 occurring shall upon petition to the court recover on behalf of
9 the state of New Mexico a civil penalty not exceeding five
10 thousand dollars (\$5,000) per violation and attorney fees and
11 costs.

12 Section 23. UNLICENSED ACTIVITY--CIVIL PENALTY.--The
13 board may impose a civil penalty in an amount not to exceed one
14 thousand dollars (\$1,000) for each violation and assess
15 administrative costs for any investigation and administrative
16 or other proceedings against any person who is found, through a
17 court or administrative proceeding, to have acted without a
18 broker's license in violation of the Real Estate Brokers,
19 Appraisers and Interior Designers Act.

20 Section 24. INTERPRETATION OF ACT.--Nothing contained in
21 the Real Estate Brokers, Appraisers and Interior Designers Act
22 shall affect the power of municipalities to tax, license and
23 regulate qualifying brokers or associate brokers. The
24 requirements in that act shall be in addition to the
25 requirements of an existing or future ordinance of any

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1 municipalities so taxing, licensing or regulating qualifying
2 brokers or associate brokers.

3 Section 25. REGISTRATION, APPRAISER'S LICENSE OR
4 CERTIFICATION REQUIRED--EXCEPTIONS.--

5 A. It is unlawful for any person in this state to
6 engage or attempt to engage in the business of developing or
7 communicating real estate appraisals or appraisal reports
8 without first registering as an apprentice or obtaining an
9 appraiser's license or certificate from the board under the
10 provisions of the Real Estate Brokers, Appraisers and Interior
11 Designers Act.

12 B. No person, unless certified by the board as a
13 state certified real estate appraiser under a general
14 certification or residential certification, shall:

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

18 (2) use the term "state certified" to describe
19 or refer to any appraisal or evaluation of real estate prepared
20 by the person;

21 (3) assume or use any title, designation or
22 abbreviation likely to create the impression of certification
23 as a state certified real estate appraiser firm, partnership,
24 corporation or group; or

25 (4) assume or use any title, designation or

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1 abbreviation likely to create the impression of certification
2 under a general certificate or describe or refer to any
3 appraisal or evaluation of nonresidential real estate by the
4 term "state certified" if the preparer's certification is
5 limited to residential real estate.

6 C. A state apprentice real estate appraiser who is
7 registered but does not hold an appraiser's license or
8 certificate is authorized to prepare appraisals of all types of
9 real estate or real property, provided that such appraisals are
10 not described or referred to as being prepared by a "state
11 certified real estate appraiser" holding a residential or
12 general certificate or by a "state licensed real estate
13 appraiser" and provided, further, that such person does not
14 assume or use any title, designation or abbreviation likely to
15 create the impression of certification as a state certified
16 real estate appraiser or licensure as a state licensed real
17 estate appraiser.

18 D. A holder of an appraiser's license or
19 residential certificate is authorized to prepare appraisals of
20 nonresidential real estate, provided that such appraisals are
21 not described or referred to as "state certified by a general
22 certified appraiser" and provided, further, that the holder of
23 the certificate does not assume or use any title, designation
24 or abbreviation likely to create the impression of general
25 certification.

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1 E. To perform in federally related transactions, as
2 referenced in the federal Financial Institutions Reform,
3 Recovery and Enforcement Act of 1989, a real estate appraiser
4 shall, at a minimum, meet the requirements for licensing as
5 currently defined in that act.

6 F. The requirement of registration, licensing or
7 certification shall not apply to a real estate broker or
8 salesperson who, in the ordinary course of business, gives an
9 opinion of the price or value of real estate for the purpose of
10 securing a listing, marketing of real property, affecting a
11 sale, lease or exchange, conducting market analyses or
12 rendering specialized services; provided, however, that the
13 opinion of the price or value shall not be referred to or
14 construed as an appraisal or appraisal report and no
15 compensation, fee or other consideration is expected or charged
16 for such opinion, other than the real estate brokerage
17 commission or fee for services rendered in connection with the
18 identified real estate or real property.

19 G. The requirement of registration, licensing or
20 certification shall not apply to real estate appraisers of the
21 property tax division of the taxation and revenue department,
22 to a county assessor or to the county assessor's employees, who
23 as part of their duties are required to engage in real estate
24 appraisal activity as a county assessor or on behalf of the
25 county assessor and no additional compensation fee or other

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1 consideration is expected or charged for such appraisal
2 activity, other than such compensation as is provided by law.

3 H. The prohibition of Subsection A of this section
4 does not apply to persons whose real estate appraisal
5 activities are limited to the appraisal of interests in
6 minerals, including oil, natural gas, liquid hydrocarbons or
7 carbon dioxide, and property held or used in connection with
8 mineral property, if that person is authorized in the person's
9 state of residence to practice and is actually engaged in the
10 practice of the profession of engineering or geology.

11 I. The process of analyzing, without altering, an
12 appraisal report that is part of a request for mortgage credit
13 is exempt from the requirements of registration, licensing or
14 certification.

15 Section 26. QUALIFICATION FOR STATE APPRENTICE REAL
16 ESTATE APPRAISERS.--

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

21 B. Each applicant for registration as a state
22 apprentice real estate appraiser shall be a legal resident of
23 the United States, except as otherwise provided in Section 36
24 of the Real Estate Brokers, Appraisers and Interior Designers
25 Act and have reached the age of majority.

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1 C. Each applicant for registration as a state
2 apprentice real estate appraiser shall have the education
3 requirements as established for the apprentice classification
4 issued by the appraiser qualifications board of the appraisal
5 foundation and adopted by rule pursuant to the Real Estate
6 Brokers, Appraisers and Interior Designers Act.

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

10 Section 27. QUALIFICATION FOR STATE APPRENTICE REAL
11 ESTATE APPRAISERS.--

12 A. Registration as a state apprentice real estate
13 appraiser shall be granted only to persons who are deemed by
14 the board to be of good repute and competent to render
15 appraisals.

16 B. Each applicant for registration as a state
17 apprentice real estate appraiser shall be a legal resident of
18 the United States, except as otherwise provided in Section 36
19 of the Real Estate Brokers, Appraisers and Interior Designers
20 Act and have reached the age of majority.

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

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1 Brokers, Appraisers and Interior Designers Act.

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

5 Section 28. QUALIFICATION FOR APPRAISER'S LICENSE.--

6 A. Appraiser's licenses shall be granted only to
7 persons who are deemed by the board to be of good repute and
8 competent to render appraisals.

9 B. Each applicant for an appraiser's license shall
10 be a legal resident of the United States, except as otherwise
11 provided in Section 36 of the Real Estate Brokers, Appraisers
12 and Interior Designers Act and have reached the age of
13 majority.

14 C. Each applicant for an appraiser's license shall
15 have additional experience and education requirements as
16 established for the licensed classification issued by the
17 appraiser qualifications board of the appraisal foundation and
18 adopted by rule pursuant to the Real Estate Brokers, Appraisers
19 and Interior Designers Act.

20 D. The board shall require such information as it
21 deems necessary from an applicant to determine the applicant's
22 honesty, trustworthiness and competency.

23 E. Persons who do not meet the qualifications for
24 licensure are not qualified for appraisal assignments involving
25 federally related transactions.

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1 Section 29. QUALIFICATION FOR CERTIFICATE.--

2 A. Certificates shall be granted only to persons
3 who are deemed by the board to be of good repute and competent
4 to render appraisals.

5 B. Each applicant for a certificate as a state
6 certified real estate appraiser shall be a legal resident of
7 the United States, except as otherwise provided in Section 36
8 of the Real Estate Brokers, Appraisers and Interior Designers
9 Act and have reached the age of majority.

10 C. Each applicant for a residential certificate as
11 a state certified real estate appraiser shall have performed
12 actively as a real estate appraiser and shall have additional
13 experience and education requirements as established for the
14 residential certification classification issued by the
15 appraiser qualifications board of the appraisal foundation and
16 adopted by rule pursuant to the Real Estate Brokers, Appraisers
17 and Interior Designers Act.

18 D. Each applicant for a general certificate as a
19 state certified real estate appraiser shall have performed
20 actively as a real estate appraiser and have additional
21 experience and education requirements as established for the
22 general certification classification issued by the appraiser
23 qualifications board of the appraisal foundation and adopted
24 pursuant to the Real Estate Brokers, Appraisers and Interior
25 Designers Act.

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

4 Section 30. APPLICATION FOR REGISTRATION, APPRAISER'S
5 LICENSE OR CERTIFICATE--EXAMINATION.--

6 A. All applications for registrations, appraiser's
7 licenses or certificates shall be made to the board in writing,
8 shall specify whether a registration, appraiser's license or
9 certificate is being applied for by the applicant and, if a
10 certificate, the classification of the certificate being
11 applied for by the applicant and shall contain such data and
12 information as may be required by the board.

13 B. Each applicant for an appraiser's license or a
14 certificate shall demonstrate by successfully passing a written
15 examination, prepared by or under the supervision of the board,
16 that the applicant possesses, consistent with licensure or the
17 certification sought, the following:

18 (1) an appropriate knowledge of technical
19 terms commonly used in or related to real estate appraising,
20 appraisal report writing and economic concepts applicable to
21 real estate;

22 (2) a basic understanding of real estate law;

23 (3) an adequate knowledge of theory and
24 techniques of real estate appraisal;

25 (4) an understanding of the principles of land

1 economics, real estate appraisal processes and problems likely
2 to be encountered in the gathering, interpreting and processing
3 of data in carrying out appraisal disciplines;

4 (5) an understanding of the standards for the
5 development and communication of real estate appraisals as
6 provided in the Real Estate Brokers, Appraisers and Interior
7 Designers Act;

8 (6) knowledge of theories of depreciation,
9 cost estimating, methods of capitalization and the mathematics
10 of real estate appraisal that are appropriate for the
11 classification of certificate applied for by the applicant;

12 (7) knowledge of other principles and
13 procedures as may be appropriate for the respective
14 classification; and

15 (8) an understanding of the types of
16 misconduct for which disciplinary proceedings may be initiated
17 against a state apprentice real estate appraiser, state
18 licensed real estate appraiser or state certified real estate
19 appraiser as set forth in the Real Estate Brokers, Appraisers
20 and Interior Designers Act.

21 C. The examination shall be given at least four
22 times each calendar year at such times and places within the
23 state as the board prescribes. The board shall make a
24 reasonable effort to conduct examinations in each congressional
25 district. Notice of passing or failing the examination shall

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1 be given by the board to each applicant not later than
2 forty-five days following the date of the examination.

3 D. An applicant for a license or a certificate who
4 fails to complete successfully the written examination may
5 apply for a reexamination for a license or certificate upon
6 compliance with such conditions as set forth in the rules
7 adopted by the board pursuant to the provisions of the Real
8 Estate Brokers, Appraisers and Interior Designers Act.

9 Section 31. ISSUANCE AND RENEWAL OF REGISTRATION,
10 APPRAISER'S LICENSES AND CERTIFICATES.--

11 A. The board shall issue to each qualified
12 applicant evidence of registration, an appraiser's license or a
13 certificate in a form and size prescribed by the board.

14 B. The board in its discretion may renew
15 registrations, appraiser's licenses or certificates for periods
16 of one, two or three years for the purpose of coordinating
17 continuing education requirements with registration,
18 appraiser's license or certificate renewal requirements.

19 C. Each registration, appraiser's license or
20 certificate holder shall submit proof of compliance with
21 continuing education requirements and the renewal fee.

22 D. At the election of an eligible holder of a
23 registration, appraiser's license or certificate who performs
24 or seeks to perform appraisals in federally related
25 transactions under the federal real estate appraisal reform

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1 amendments, the application for renewal shall include payment
2 of a registry fee set by the federal financial institutions
3 examination council. The registry fee shall be transmitted by
4 the board to the federal financial institutions examination
5 council. Notice of whether the state apprentice real estate
6 appraiser, state licensed real estate appraiser or state
7 certified real estate appraiser has paid the federal registry
8 fee and is thus eligible to perform in federally related
9 transactions shall be included on the face of each
10 registration, appraiser's license and certificate issued by the
11 board.

12 E. The board shall certify renewal of each
13 registration, appraiser's license or certificate in the absence
14 of any reason or condition that might warrant the refusal of
15 the renewal of a registration, appraiser's license or
16 certificate.

17 F. In the event that any registration, appraiser's
18 license or certificate holder fails to apply properly for
19 renewal of the registration, appraiser's license or certificate
20 within the thirty days immediately following the holder's
21 registration, appraiser's license or certificate renewal date
22 of any given year, the registration, appraiser's license or
23 certificate shall expire thirty days following the renewal
24 date.

25 G. The board may renew an expired registration upon

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1 application, payment of the current annual renewal fee,
2 submission of proof of compliance with continuing education
3 requirements and payment of a reinstatement fee in the amount
4 not to exceed two hundred dollars (\$200), in addition to any
5 other fee permitted under the Real Estate Brokers, Appraisers
6 and Interior Designers Act.

7 H. The board may renew an expired appraiser's
8 license or certificate upon application, payment of the current
9 annual renewal fee, submission of proof of compliance with
10 continuing education requirements and payment of the
11 reinstatement fee, in addition to any other fee permitted under
12 the Real Estate Brokers, Appraisers and Interior Designers Act;
13 provided that the board may, in the board's discretion, treat
14 the former certificate holder as a new applicant and further
15 may require reexamination as a condition to reissuance of a
16 certificate.

17 I. If during a period of one year from the date a
18 registration, appraiser's license or certificate expires, the
19 registration, appraiser's license or certificate holder is
20 either absent from this state on active duty military service
21 or is suffering from an illness or injury of such severity that
22 the person is physically or mentally incapable of renewal of
23 the registration, appraiser's license or certificate, payment
24 of the reinstatement fee and, in the case of an appraiser's
25 license or certificate holder, reexamination shall not be

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1 required by the board if, within three months of the person's
2 permanent return to this state or sufficient recovery from
3 illness or injury to allow the person to make an application,
4 the person makes application to the board for renewal. A copy
5 of the person's military orders or a certificate of the
6 applicant's physician shall accompany the application.

7 J. The board may adopt additional requirements by
8 rule for the issuance or renewal of registrations, appraiser's
9 licenses or certificates to maintain or upgrade real estate
10 appraiser qualifications at a level no less than the
11 recommendations of the appraiser qualifications board of the
12 appraisal foundation or the requirements of the appraisal
13 subcommittee.

14 Section 32. REFUSAL, SUSPENSION OR REVOCATION OF
15 REGISTRATION, APPRAISER'S LICENSE OR CERTIFICATE.--

16 A. The board shall refuse to issue or renew a
17 registration, appraiser's license or certificate or shall
18 suspend or revoke a registration, appraiser's license or
19 certificate at any time when the applicant, state apprentice
20 real estate appraiser, state licensed real estate appraiser or
21 state certified real estate appraiser, in performing or
22 attempting to perform any of the actions set forth in the Real
23 Estate Brokers, Appraisers and Interior Designers Act, is
24 determined by the board to have:

- 25 (1) procured or attempted to procure a

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1 registration, appraiser's license or certificate by knowingly
2 making a false statement or submitting false information or
3 through any form of fraud or misrepresentation;

4 (2) refused to provide complete information in
5 response to a question in an application for a registration,
6 appraiser's license or certificate or failed to meet the
7 minimum qualifications established by the Real Estate Brokers,
8 Appraisers and Interior Designers Act;

9 (3) paid money, other than as provided for in
10 the Real Estate Brokers, Appraisers and Interior Designers Act,
11 to any member or employee of the board to procure a
12 registration, appraiser's license or certificate;

13 (4) been convicted of a crime that is
14 substantially related to the qualifications, functions and
15 duties of the person developing real estate appraisals and
16 communicating real estate appraisals to others;

17 (5) committed an act involving dishonesty,
18 fraud or misrepresentation or by omission engaged in a
19 dishonest or fraudulent act or misrepresentation with the
20 intent to substantially benefit the registration, appraiser's
21 license or certificate holder or another person or with the
22 intent to substantially injure another person;

23 (6) willfully disregarded or violated any of
24 the provisions of the Real Estate Brokers, Appraisers and
25 Interior Designers Act or the rules of the board adopted

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1 pursuant to that act;

2 (7) accepted an appraisal assignment when the
3 employment itself is contingent upon the real estate appraiser
4 reporting a predetermined analysis or opinion or when the fee
5 to be paid for the performance of the appraisal assignment is
6 contingent upon the opinion, conclusion or valuation reached or
7 upon the consequences resulting from the appraisal assignment;
8 provided that a contingent fee agreement is permitted for the
9 rendering of special services not constituting an appraisal
10 assignment and the acceptance of a contingent fee is clearly
11 and prominently stated on the written appraisal report;

12 (8) suffered the entry of a final civil
13 judgment on the grounds of fraud, misrepresentation or deceit
14 in the making of an appraisal; provided that the state
15 apprentice real estate appraiser, state licensed real estate
16 appraiser or state certified real estate appraiser shall be
17 afforded an opportunity to present matters in mitigation and
18 extenuation, but may not collaterally attack the civil
19 judgment; or

20 (9) committed any other conduct that is
21 related to dealings as a state apprentice real estate
22 appraiser, state licensed real estate appraiser or state
23 certified real estate appraiser and that constitutes or
24 demonstrates bad faith, untrustworthiness, impropriety, fraud,
25 dishonesty or any unlawful act.

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1 B. The board shall refuse to issue or renew a
2 registration, appraiser's license or certificate and shall
3 suspend or revoke a registration, appraiser's license or
4 certificate at any time when the board determines that the
5 applicant or state apprentice real estate appraiser, state
6 licensed real estate appraiser or state certified real estate
7 appraiser, in the performance of real estate appraisal work,
8 has:

9 (1) repeatedly failed to observe one or more
10 of the standards for the development or communication of real
11 estate appraisals set forth in the rules adopted pursuant to
12 the Real Estate Brokers, Appraisers and Interior Designers Act;

13 (2) repeatedly failed or refused, without good
14 cause, to exercise reasonable diligence in developing an
15 appraisal, preparing an appraisal report or communicating an
16 appraisal;

17 (3) repeatedly been negligent or incompetent
18 in developing an appraisal, preparing an appraisal report or
19 communicating an appraisal; or

20 (4) violated the confidential nature of
21 records to which the state apprentice real estate appraiser,
22 state licensed real estate appraiser or state certified real
23 estate appraiser gained access through employment or engagement
24 as such an appraiser.

25 C. The action of the board relating to the

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1 issuance, suspension or revocation of any registration,
2 appraiser's license or certificate shall be governed by the
3 provisions of the Uniform Licensing Act. The board shall
4 participate in any hearings required or conducted by the board
5 pursuant to the provisions of the Uniform Licensing Act.

6 D. The provisions of the Criminal Offender
7 Employment Act shall govern any consideration of criminal
8 records required or permitted pursuant to the Real Estate
9 Brokers, Appraisers and Interior Designers Act.

10 E. Nothing in the Real Estate Brokers, Appraisers
11 and Interior Designers Act shall be construed to preclude any
12 other remedies otherwise available under common law or statutes
13 of this state.

14 Section 33. STANDARDS OF PROFESSIONAL APPRAISAL
15 PRACTICE--CERTIFICATE OF GOOD STANDING.--

16 A. Each state apprentice real estate appraiser,
17 state licensed real estate appraiser or state certified real
18 estate appraiser shall comply with generally accepted standards
19 of professional appraisal practice and generally accepted
20 ethical rules to be observed by a real estate appraiser.
21 Generally accepted standards of professional appraisal practice
22 are currently evidenced by the uniform standards of
23 professional appraisal practice promulgated by the appraisal
24 foundation and as adopted by rule pursuant to provisions of the
25 Real Estate Brokers, Appraisers and Interior Designers Act.

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1 B. The board, upon payment of a fee in an amount
2 specified in its rules, may issue a certificate of good
3 standing to any real estate appraiser who is in good standing
4 in accordance with the Real Estate Brokers, Appraisers and
5 Interior Designers Act.

6 Section 34. APPRAISAL FEES.--The board shall charge and
7 collect the following fees not to exceed:

8 A. an application fee for a registration, two
9 hundred dollars (\$200);

10 B. an application fee for an appraiser's license or
11 residential certification, four hundred dollars (\$400);

12 C. an application fee for general certification,
13 five hundred dollars (\$500);

14 D. an examination fee for general and residential
15 certification or appraiser's license, two hundred dollars
16 (\$200);

17 E. a registration renewal fee, two hundred fifty
18 dollars (\$250);

19 F. a certificate renewal fee for residential
20 certification, or appraiser's license renewal, four hundred
21 fifty dollars (\$450);

22 G. a certificate renewal fee for general
23 certification, five hundred dollars (\$500);

24 H. the registry fee as required by the federal real
25 estate appraisal reform amendments;

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1 I. for registration for temporary practice, two
2 hundred dollars (\$200);

3 J. for each duplicate registration, appraiser's
4 license or certificate issued because a registration,
5 appraiser's license or certificate is lost or destroyed and an
6 affidavit as to its loss or destruction is made and filed,
7 fifty dollars (\$50.00); and

8 K. fees to cover reasonable and necessary
9 administrative expenses.

10 Section 35. CONTINUING EDUCATION.--

11 A. The board shall adopt rules providing for
12 continuing education programs that offer courses in real
13 property appraisal, practices and techniques, including basic
14 real estate law and practice. The rules shall require that
15 every state apprentice real estate appraiser, state licensed
16 real estate appraiser or state certified real estate appraiser,
17 as a condition of renewal, shall successfully complete the
18 continuing education requirements approved by the board.

19 B. The rules shall prescribe areas of specialty or
20 expertise relating to registration, appraiser's licenses and
21 the type of certificate held and may require that a certain
22 part of continuing education be devoted to courses in the area
23 of the state apprentice real estate appraiser's, state licensed
24 real estate appraiser's or state certified real estate
25 appraiser's specialty or expertise. The rules shall also

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1 permit state apprentice real estate appraisers, state licensed
2 real estate appraisers and state certified real estate
3 appraisers to meet the continuing education requirements by
4 participation other than as a student in educational processes
5 and programs in real property appraisal theory, practices and
6 techniques by instructing or preparing educational materials.

7 C. The board shall adopt rules to improve real
8 estate and interior design education and to train real estate
9 and interior design instructors.

10 Section 36. NONRESIDENT APPLICANTS--RECIPROCITY.--

11 A. The board shall issue a registration,
12 appraiser's license or certificate to a nonresident of New
13 Mexico or the United States; provided that requirements for
14 registration, licensing or certification in the nonresident
15 applicant's resident state or country are the same or similar
16 to the requirements set forth in the Real Estate Brokers,
17 Appraisers and Interior Designers Act. In the event that the
18 requirements of the nonresident applicant's resident state or
19 country are not similar or cannot be verified, a qualifying
20 nonresident applicant may become a state apprentice real estate
21 appraiser, state licensed real estate appraiser or state
22 certified real estate appraiser by conforming to all conditions
23 of the Real Estate Brokers, Appraisers and Interior Designers
24 Act. Examinations taken in other states or countries are
25 acceptable in New Mexico at the board's discretion if the

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1 examination was at the appropriate level and approved by the
2 appraisal foundation. If it is beneficial to New Mexico state
3 apprentice real estate appraisers, state licensed real estate
4 appraisers or state certified real estate appraisers, the board
5 may negotiate agreements with other states or countries
6 allowing reciprocity. The registration, appraiser's license or
7 certificate shall be issued upon payment of the application
8 fee; verification that the applicant has complied with the
9 current education requirements of the applicant's resident
10 state or country; and the filing with the board of a license
11 history and verification of good standing issued by the
12 licensing board of the other state or country.

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

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1 board, it shall be by duplicate copies, one of which shall be
2 filed in the office of the board and the other immediately
3 forwarded by registered mail to the nonresident state
4 apprentice real estate appraiser, state licensed real estate
5 appraiser or state certified real estate appraiser to whom the
6 processes or pleadings are directed.

7 Section 37. TEMPORARY PRACTICE.--

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

11 (1) the real estate appraiser's business is of
12 a temporary nature and certified by the real estate appraiser
13 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 the
17 board for temporary practice shall file an irrevocable consent
18 that suits and actions may be commenced against the person in
19 the proper court of any county of this state in which a cause
20 of action may arise from the person's actions as a state
21 apprentice real estate appraiser, state licensed real estate
22 appraiser or state certified real estate appraiser or in which
23 the plaintiff may reside, by the service of any processes or
24 pleadings authorized by the laws of this state on the board,
25 the consent stipulating and agreeing that such service of

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

11 Section 38. CIVIL AND CRIMINAL PENALTIES--INJUNCTIVE
12 RELIEF.--

13 A. A person who violates any provision of the Real
14 Estate Brokers, Appraisers and Interior Designers Act is guilty
15 of a misdemeanor and shall be punished by a fine of not more
16 than one thousand dollars (\$1,000) or by imprisonment for not
17 more than six months or both.

18 B. In the event a person has engaged in or proposes
19 to engage in an act or practice that violates a provision of
20 the Real Estate Brokers, Appraisers and Interior Designers Act,
21 the attorney general or the district attorney of the judicial
22 district in which the person resides or the judicial district
23 in which the violation has occurred or will occur shall, upon
24 application of the board, maintain an action in the name of the
25 state to prosecute the violation or to enjoin the proposed act

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1 or practice.

2 C. The board may impose a civil penalty in an
3 amount not to exceed one thousand dollars (\$1,000) for each
4 violation of the Real Estate Brokers, Appraisers and Interior
5 Designers Act and assess administrative costs for an
6 investigation and administrative or other proceeding against a
7 state apprentice real estate appraiser, state licensed real
8 estate appraiser or state certified real estate appraiser or
9 against a person who is found, through an administrative
10 proceeding, to have acted without a registration, appraiser's
11 license or certificate. Appeals from decisions of the board
12 shall be taken as provided in Section 39-3-1.1 NMSA 1978.

13 Section 39. REQUIREMENTS FOR INTERIOR DESIGN LICENSURE.--
14 Each applicant for interior design licensure shall apply to the
15 board. Except as otherwise provided in the Real Estate
16 Brokers, Appraisers and Interior Designers Act, each applicant
17 shall take and pass a nationally standardized examination. The
18 board may adopt substantially all or part of the examination
19 and grading procedures of the national council for interior
20 design qualification. Prior to examination, the applicant
21 shall provide substantial evidence to the board that the
22 applicant:

23 A. is a graduate of a five-year interior design
24 program from an accredited institution and has completed at
25 least one year of diversified interior design experience;

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1 B. is a graduate of a four-year interior design
2 program from an accredited institution and has completed at
3 least two years of diversified interior design experience;

4 C. has completed at least three years of an
5 interior design curriculum from an accredited institution and
6 has completed three years of diversified interior design
7 experience;

8 D. is a graduate of a two-year interior design
9 program from an accredited institution and has completed four
10 years of diversified interior design experience; or

11 E. has apprenticed under a designer who has passed
12 the national council for interior design qualification
13 examination or a licensed interior designer for a minimum of
14 eight years.

15 Section 40. INTERIOR DESIGN LICENSE WITHOUT
16 EXAMINATION.--

17 A. The board may accept, in lieu of examination,
18 satisfactory evidence of interior design licensure in another
19 state or country where the qualifications are equal to or
20 exceed those required by the provisions of the Real Estate
21 Brokers, Appraisers and Interior Designers Act, provided that
22 the applicant holds a current interior design license in the
23 other jurisdiction and has complied with all other requirements
24 of the Real Estate Brokers, Appraisers and Interior Designers
25 Act.

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1 B. The board may accept, in lieu of examination,
2 satisfactory evidence of interior design licensure or
3 certification by the national council for interior design
4 qualification.

5 Section 41. INTERIOR DESIGN LICENSE--ISSUANCE--RENEWAL--
6 DENIAL, SUSPENSION OR REVOCATION.--

7 A. An interior design license shall be issued to
8 every person who presents satisfactory evidence of possessing
9 the qualifications of education, experience and, as
10 appropriate, the examination performance required by the
11 provisions of the Real Estate Brokers, Appraisers and Interior
12 Designers Act, provided that the applicant has reached the age
13 of majority and pays the required fees.

14 B. Each original license shall authorize the holder
15 to use the title of and be known as a licensed interior
16 designer from the date of issuance to the next renewal date
17 unless the interior design license is suspended or revoked.

18 C. All interior design licenses shall expire
19 annually and shall be renewed by submitting a completed renewal
20 application, accompanied by the required fees.

21 D. An interior design license shall not be renewed
22 until the licensee submits satisfactory evidence to the board
23 that, during the last year, the licensee has participated in
24 not less than eight hours of continuing education approved by
25 the board. The board shall approve only continuing education

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1 that builds upon basic knowledge of interior design. The board
2 may make exceptions from the continuing education requirement
3 in emergency or hardship cases.

4 E. The holder of an interior design license that
5 has expired through failure to renew may renew the interior
6 design license at any time within two years from the date on
7 which the interior design license expired, upon approval of the
8 board.

9 F. The board may promulgate policies and procedures
10 providing for the establishment of an inactive status for
11 licensees temporarily not engaged in the practice of interior
12 design.

13 G. In accordance with the provisions of the Uniform
14 Licensing Act, the board may deny, refuse to renew, suspend or
15 revoke an interior design license or impose probationary
16 conditions when the licensee has:

17 (1) obtained the interior design license by
18 means of fraud, misrepresentation or concealment of material
19 facts;

20 (2) committed an act of fraud or deceit in
21 professional conduct or been convicted of a felony;

22 (3) made a representation as being a licensed
23 interior designer prior to being issued an interior design
24 license, except as authorized under the provisions of the Real
25 Estate Brokers, Appraisers and Interior Designers Act;

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1 (4) been found by the board to have aided or
2 abetted an unlicensed person in violating the provisions of the
3 Real Estate Brokers, Appraisers and Interior Designers Act; or

4 (5) failed to comply with the provisions of
5 the Real Estate Brokers, Appraisers and Interior Designers Act
6 or rules adopted pursuant to that act.

7 Section 42. INTERIOR DESIGN LICENSE REQUIRED--PENALTY.--

8 A. No person shall knowingly:

9 (1) use the name or title of licensed interior
10 designer when the person is not the holder of a current, valid
11 interior design license issued pursuant to the Real Estate
12 Brokers, Appraisers and Interior Designers Act;

13 (2) use or present as the person's own the
14 interior design license of another;

15 (3) give false or forged evidence to the board
16 or a board member for the purpose of obtaining an interior
17 design license;

18 (4) use or attempt to use an interior design
19 license that has been suspended, revoked or placed on inactive
20 status; or

21 (5) conceal information relative to violations
22 of the Real Estate Brokers, Appraisers and Interior Designers
23 Act.

24 B. A person who violates a provision of this
25 section is guilty of a misdemeanor and shall be sentenced under

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1 the provisions of Section 31-19-1 NMSA 1978 to imprisonment in
2 the county jail for a definite term of less than one year or to
3 the payment of a fine of not more than one thousand dollars
4 (\$1,000) or both, in the discretion of the judge.

5 Section 43. PENALTIES LEVIED BY THE BOARD.--Upon a
6 finding by the board of a violation of the provisions of the
7 Real Estate Brokers, Appraisers and Interior Designers Act, the
8 board may:

9 A. refuse to approve an application for licensure;

10 B. refuse to renew an existing interior design
11 license;

12 C. revoke or suspend an interior design license;

13 D. impose an administrative fine;

14 E. issue a reprimand;

15 F. assess the costs of disciplinary proceedings, as
16 provided in the Uniform Licensing Act; or

17 G. invoke any combination of the penalties listed
18 in this section.

19 Section 44. EXEMPTIONS.--

20 A. Nothing in the Real Estate Brokers, Appraisers
21 and Interior Designers Act shall be construed as preventing or
22 restricting the practice, services or activities of:

23 (1) engineers licensed pursuant to the
24 Engineering and Surveying Practice Act;

25 (2) architects licensed pursuant to the

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1 Architectural Act;

2 (3) contractors licensed pursuant to the
3 Construction Industries Licensing Act;

4 (4) any interior decorator or individual
5 offering interior decorating services, including but not
6 limited to selection of surface materials, window treatments,
7 wall coverings, paint, floor coverings and lighting fixtures;
8 or

9 (5) builders, home furnishings salespersons or
10 similar purveyors of goods and services relating to homemaking.

11 B. Nothing contained in the Real Estate Brokers,
12 Appraisers and Interior Designers Act shall prevent a person
13 from rendering or offering to render any of the services that
14 constitute the practice of interior design; provided that such
15 person shall not be permitted to use or be identified by the
16 title "licensed interior designer" unless licensed in
17 accordance with the provisions of that act or as otherwise
18 provided by law.

19 C. Nothing in the Real Estate Brokers, Appraisers
20 and Interior Designers Act shall be construed to permit a
21 licensed interior designer to engage in the practice of
22 engineering as defined in the Engineering and Surveying
23 Practice Act.

24 Section 45. LICENSE FEES.--The fees for an original
25 interior design license, renewal of interior design license,

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1 late charges or any other fees authorized by the provisions of
2 the Real Estate Brokers, Appraisers and Interior Designers Act
3 shall be set by regulation of the board. The fee for initial
4 interior design licensure shall not exceed two hundred dollars
5 (\$200).

6 Section 46. DISCLOSURE REQUIREMENTS.--

7 A. Interior design documents prepared by a licensed
8 interior designer shall contain a statement that the document
9 is not an architectural or engineering study, drawing,
10 specification or design and is not to be used as the basis for
11 construction of any load-bearing framing, wall or structure
12 construction.

13 B. Before entering into a contract, a licensed
14 interior designer shall clearly determine the scope and nature
15 of the project and the methods of compensation. The licensed
16 interior designer may offer professional services to the client
17 as a consultant, specifier or supplier on the basis of a fee,
18 percentage or mark-up. The licensed interior designer shall
19 fully disclose to the client the manner in which all
20 compensation is to be paid.

21 C. A licensed interior designer shall not accept
22 any form of compensation from a supplier of goods and services
23 in cash or in kind, unless the licensed interior designer first
24 informs the client of the compensation.

25 Section 47. JUDGMENT AGAINST QUALIFYING OR ASSOCIATE

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1 BROKER--PETITION--REQUIREMENTS--RECOVERY LIMITATIONS.--

2 A. When any aggrieved person claims a pecuniary loss
3 caused by a licensed qualifying broker or associate broker based
4 upon fraud, knowing or willful misrepresentation or wrongful
5 conversion of funds entrusted to the qualifying broker or
6 associate broker, which loss arose out of any transaction for
7 which a qualifying broker's or an associate broker's license is
8 required and arose out of or during the course of a transaction
9 involving the sale, lease, exchange or other disposition of real
10 estate, where the cause of action arose on or after July 1, 1980,
11 that person may, within one year after obtaining a final judgment
12 based upon fraud, knowing or willful misrepresentation or
13 wrongful conversion of funds entrusted to the qualifying broker
14 or associate broker and the termination of all proceedings,
15 including appeals in connection with the judgment, file a
16 verified petition with the board for payment from the real estate
17 brokers, appraisers and interior designers fund for the actual
18 damages included in the judgment and unpaid, but not more than
19 ten thousand dollars (\$10,000) per judgment regardless of the
20 number of persons aggrieved, or parcels of real estate involved,
21 in the transaction. The aggregate amount recoverable by all
22 claimants for losses caused by any one licensee shall not exceed
23 thirty thousand dollars (\$30,000).

24 B. A copy of the petition shall be served upon the
25 board in the manner provided by law for service of a civil

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1 summons.

2 C. The board shall conduct a hearing on the petition
3 after service of the petition upon the board. At the hearing,
4 the petitioner shall be required to show that the petitioner:

5 (1) is not the spouse of the judgment debtor,
6 the personal representative of the spouse or related to the third
7 degree of consanguinity or affinity to the licensee whose conduct
8 is alleged to have caused the loss;

9 (2) has complied with all the requirements of
10 the Real Estate Brokers, Appraisers and Interior Designers Act;

11 (3) has obtained a judgment of the kind
12 described in Subsection A of this section, the amount awarded and
13 the amount owing at the date of the petition;

14 (4) has had execution issued upon the judgment
15 and that the officer executing the writ has made a return showing
16 that the judgment debtor has no property within the state subject
17 to execution. If execution is levied against the property of the
18 judgment debtor, the petitioner shall show that the amount
19 realized on the sale was insufficient to satisfy the judgment and
20 shall set forth the amount realized from the sale and the balance
21 remaining due on the judgment after application of the amount
22 realized;

23 (5) has made reasonable searches and inquiries
24 to ascertain whether the judgment debtor is possessed of real or
25 personal property or other assets liable to be sold or applied in

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1 satisfaction of the judgment, including partnership assets, the
2 licensee's estate or any bond or insurance, and that the
3 petitioner has exercised reasonable diligence to secure payment
4 of the judgment from the assets of the judgment debtor; and

5 (6) has a judgment that is not:

6 (a) covered by any bond, insurance, surety
7 agreement or indemnity agreement;

8 (b) a loss incurred by a partner, joint
9 venturer, employer, employee or associate of the licensee whose
10 conduct is alleged to have caused the loss; or a corporate
11 officer or director of a corporation in which the judgment debtor
12 is also an officer, director or employee; or

13 (c) a loss incurred by any business or
14 other entity in which the licensee whose conduct is alleged to
15 have caused the loss has any interest at the time of the conduct
16 alleged to have caused the loss.

17 Section 48. BOARD--REVIEW--COMPROMISE.--Upon receipt of a
18 petition, the board shall conduct a hearing in substantially the
19 same manner as set forth in the Uniform Licensing Act.

20 Section 49. BOARD FINDING.--If the board determines that a
21 claim should be levied against the real estate brokers,
22 appraisers and interior designers fund, the board shall enter an
23 order requiring payment from the fund of that portion of the
24 petitioner's claim that is payable from the fund.

25 Section 50. INSUFFICIENT FUNDS.--If at any time the money

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1 deposited in the real estate brokers, appraisers and interior
2 designers fund is insufficient to satisfy any authorized claim
3 for payment from the fund, the board shall, when sufficient money
4 has been deposited in the fund, satisfy such unpaid claims in the
5 order that they were originally filed, together with accumulated
6 interest at the rate of eight percent per year.

7 Section 51. SUBROGATION.--When the board makes any payment
8 from the real estate brokers, appraisers and interior designers
9 fund to a judgment creditor, the board shall be subrogated to all
10 rights of the judgment creditor for the amounts paid out of the
11 fund, and any amount and interest so recovered by the board shall
12 be deposited in the fund. The board may, pursuant to the
13 provisions of the Uniform Licensing Act, revoke, suspend or
14 refuse to renew the broker's license of any person for whom
15 payment from the fund has been made in accordance with the
16 provisions of the Real Estate Brokers, Appraisers and Interior
17 Designers Act. Further, the board may refuse to issue or renew
18 the license of any person for whom payment from the real estate
19 brokers, appraisers and interior designers fund has been made,
20 until that person reimburses the fund for all payments made on
21 that person's behalf.

22 Section 52. WAIVER.--The failure of any person to comply
23 with all of the provisions of the Real Estate Brokers, Appraisers
24 and Interior Designers Act shall constitute a waiver of any
25 rights pursuant to that act.

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1 Section 53. DISCIPLINARY ACTION NOT LIMITED.--Nothing
2 contained in the Real Estate Brokers, Appraisers and Interior
3 Designers Act shall limit the authority of the board to take
4 disciplinary action against a licensee for a violation of any of
5 the provisions of the Real Estate Brokers, Appraisers and
6 Interior Designers Act or of the rules of the board, nor shall
7 the repayment in full of all obligations to the real estate
8 brokers, appraisers and interior designers fund by any licensee
9 nullify or modify the effect of any other disciplinary proceeding
10 brought pursuant to the provisions of the Real Estate Brokers,
11 Appraisers and Interior Designers Act or the rules promulgated by
12 the board.

13 Section 54. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--
14 The real estate brokers, appraisers and interior designers board
15 is terminated on July 1, 2015 pursuant to the Sunset Act. The
16 board shall continue to operate until July 1, 2016. Effective
17 July 1, 2016, the Real Estate Brokers, Appraisers and Interior
18 Designers Act is repealed.

19 Section 55. TEMPORARY PROVISION--TRANSFERS, CONTRACTUAL
20 OBLIGATIONS AND STATUTORY REFERENCES.--

21 A. On the effective date of this act, all functions,
22 appropriations, money, records, furniture, equipment, supplies
23 and other property of the New Mexico real estate commission, the
24 real estate appraisers board and the interior design board are
25 transferred to the real estate brokers, appraisers and interior

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1 designers board.

2 B. On the effective date of this act, all contractual
3 obligations and agreements of the New Mexico real estate
4 commission, the real estate appraisers board and the interior
5 design board shall be binding on the real estate brokers,
6 appraisers and interior designers board.

7 C. On the effective date of this act, all references
8 in the law to the New Mexico real estate commission, the real
9 estate appraisers board or the interior design board shall be
10 deemed to be references to the real estate brokers, appraisers
11 and interior designers board.

12 Section 56. REPEAL.--

13 A. Section 47-11-2.1 NMSA 1978 (being Laws 1986,
14 Chapter 97, Section 2, as amended) is repealed.

15 B. Section 47-11-11.1 NMSA 1978 (being Laws 1986,
16 Chapter 97, Section 13) is repealed.

17 C. Section 47-11-11.2 NMSA 1978 (being Laws 1986,
18 Chapter 97, Section 14) is repealed.

19 D. Section 61-24C-1 NMSA 1978 (being Laws 1989,
20 Chapter 53, Section 1, as amended) is repealed.

21 E. Section 61-24C-2 NMSA 1978 (being Laws 1989,
22 Chapter 53, Section 2, as amended) is repealed.

23 F. Section 61-24C-3 NMSA 1978 (being Laws 1989,
24 Chapter 53, Section 3, as amended) is repealed.

25 G. Section 61-24C-4 NMSA 1978 (being Laws 1989,

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1 Chapter 53, Section 4, as amended) is repealed.

2 H. Section 61-24C-5 NMSA 1978 (being Laws 1989,
3 Chapter 53, Section 5, as amended) is repealed.

4 I. Section 61-24C-6 NMSA 1978 (being Laws 1989,
5 Chapter 53, Section 6) is repealed.

6 J. Section 61-24C-7 NMSA 1978 (being Laws 1989,
7 Chapter 53, Section 7) is repealed.

8 K. Section 61-24C-8 NMSA 1978 (being Laws 1989,
9 Chapter 53, Section 8) is repealed.

10 L. Section 61-24C-9 NMSA 1978 (being Laws 1989,
11 Chapter 53, Section 9) is repealed.

12 M. Section 61-24C-10 NMSA 1978 (being Laws 1989,
13 Chapter 53, Section 10, as amended) is repealed.

14 N. Section 61-24C-11 NMSA 1978 (being Laws 1989,
15 Chapter 53, Section 11, as amended) is repealed.

16 O. Section 61-24C-12 NMSA 1978 (being Laws 1989,
17 Chapter 53, Section 12, as amended) is repealed.

18 P. Section 61-24C-13 NMSA 1978 (being Laws 1989,
19 Chapter 53, Section 13, as amended) is repealed.

20 Q. Section 61-24C-14 NMSA 1978 (being Laws 1989,
21 Chapter 53, Section 14) is repealed.

22 R. Section 61-24C-15 NMSA 1978 (being Laws 1989,
23 Chapter 53, Section 15, as amended) is repealed.

24 S. Section 61-24C-16 NMSA 1978 (being Laws 1989,
25 Chapter 53, Section 16, as amended) is repealed.

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1 T. Section 61-24C-17 NMSA 1978 (being Laws 1993,
2 Chapter 83, Section 5, as amended) is repealed.

3 U. Section 61-29-1 NMSA 1978 (being Laws 1959,
4 Chapter 226, Section 1, as amended) is repealed.

5 V. Section 61-29-2 NMSA 1978 (being Laws 1999,
6 Chapter 127, Section 1, as amended) is repealed.

7 W. Section 61-29-3 NMSA 1978 (being Laws 1974,
8 Chapter 78, Section 29, as amended) is repealed.

9 X. Section 61-29-4 NMSA 1978 (being Laws 1959,
10 Chapter 226, Section 3, as amended) is repealed.

11 Y. Section 61-29-4.1 NMSA 1978 (being Laws 1985,
12 Chapter 89, Section 1, as amended) is repealed.

13 Z. Section 61-29-4.2 NMSA 1978 (being Laws 2001,
14 Chapter 216, Section 1, as amended) is repealed.

15 AA. Section 61-29-4.3 NMSA 1978 (being Laws 2001,
16 Chapter 163, Section 12) is repealed.

17 BB. Section 61-29-4.4 NMSA 1978 (being Laws 2005,
18 Chapter 35, Section 6) is repealed.

19 CC. Section 61-29-5 NMSA 1978 (being Laws 1959,
20 Chapter 226, Section 4, as amended) is repealed.

21 DD. Section 61-29-6 NMSA 1978 (being Laws 1959,
22 Chapter 226, Section 5, as amended) is repealed.

23 EE. Section 61-29-7 NMSA 1978 (being Laws 1959,
24 Chapter 226, Section 6, as amended) is repealed.

25 FF. Section 61-29-8 NMSA 1978 (being Laws 1959,

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1 Chapter 226, Section 7, as amended) is repealed.

2 GG. Section 61-29-9 NMSA 1978 (being Laws 1959,
3 Chapter 226, Section 8, as amended) is repealed.

4 HH. Section 61-29-10 NMSA 1978 (being Laws 1959,
5 Chapter 226, Section 9, as amended) is repealed.

6 II. Section 61-29-10.1 NMSA 1978 (being Laws 1999,
7 Chapter 127, Section 2, as amended) is repealed.

8 JJ. Section 61-29-10.2 NMSA 1978 (being Laws 1999,
9 Chapter 127, Section 3, as amended) is repealed.

10 KK. Section 61-29-11 NMSA 1978 (being Laws 1959,
11 Chapter 226, Section 10, as amended) is repealed.

12 LL. Section 61-29-12 NMSA 1978 (being Laws 1959,
13 Chapter 226, Section 11, as amended) is repealed.

14 MM. Section 61-29-13 NMSA 1978 (being Laws 1959,
15 Chapter 226, Section 12, as amended) is repealed.

16 NN. Section 61-29-15 NMSA 1978 (being Laws 1959,
17 Chapter 226, Section 14, as amended) is repealed.

18 OO. Section 61-29-16 NMSA 1978 (being Laws 1959,
19 Chapter 226, Section 15, as amended) is repealed.

20 PP. Section 61-29-16.1 NMSA 1978 (being Laws 2005,
21 Chapter 35, Section 15) is repealed.

22 QQ. Section 61-29-17 NMSA 1978 (being Laws 1965,
23 Chapter 304, Section 8, as amended) is repealed.

24 RR. Section 61-29-17.2 NMSA 1978 (being Laws 2001,
25 Chapter 163, Section 11) is repealed.

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1 SS. Section 61-29-18 NMSA 1978 (being Laws 1959,
2 Chapter 226, Section 18, as amended) is repealed.

3 TT. Section 61-29-19 NMSA 1978 (being Laws 1978,
4 Chapter 203, Section 2, as amended) is repealed.

5 UU. Section 61-29-19.1 NMSA 1978 (being Laws 2005,
6 Chapter 35, Section 20) is repealed.

7 VV. Section 61-29-20 NMSA 1978 (being Laws 1980,
8 Chapter 82, Section 1) is repealed.

9 WW. Section 61-29-21 NMSA 1978 (being Laws 1980,
10 Chapter 82, Section 2) is repealed.

11 XX. Section 61-29-22 NMSA 1978 (being Laws 1980,
12 Chapter 82, Section 3, as amended) is repealed.

13 YY. Section 61-29-23 NMSA 1978 (being Laws 1980,
14 Chapter 82, Section 42, as amended) is repealed.

15 ZZ. Section 61-29-24 NMSA 1978 (being Laws 1980,
16 Chapter 82, Section 5, as amended) is repealed.

17 AAA. Section 61-29-25 NMSA 1978 (being Laws 1980,
18 Chapter 82, Section 6, as amended) is repealed.

19 BBB. Section 61-29-26 NMSA 1978 (being Laws 1980,
20 Chapter 82, Section 7) is repealed.

21 CCC. Section 61-29-27 NMSA 1978 (being Laws 1980,
22 Chapter 82, Section 8, as amended) is repealed.

23 DDD. Section 61-29-28 NMSA 1978 (being Laws 1980,
24 Chapter 82, Section 9) is repealed.

25 EEE. Section 61-29-29 NMSA 1978 (being Laws 1980,

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1 Chapter 82, Section 10) is repealed.

2 FFF. Section 61-30-1 NMSA 1978 (being Laws 1990,
3 Chapter 75, Section 1, as amended) is repealed.

4 GGG. Section 61-30-2 NMSA 1978 (being Laws 1990,
5 Chapter 75, Section 2) is repealed.

6 HHH. Section 61-30-3 NMSA 1978 (being Laws 1990,
7 Chapter 75, Section 3, as amended) is repealed.

8 III. Section 61-30-4 NMSA 1978 (being Laws 1990,
9 Chapter 75, Section 4, as amended) is repealed.

10 JJJ. Section 61-30-5 NMSA 1978 (being Laws 1990,
11 Chapter 75, Section 5, as amended) is repealed.

12 KKK. Section 61-30-5.1 NMSA 1978 (being Laws 1999,
13 Chapter 283, Section 8) is repealed.

14 LLL. Section 61-30-7 NMSA 1978 (being Laws 1990,
15 Chapter 75, Section 7, as amended) is repealed.

16 MMM. Section 61-30-8 NMSA 1978 (being Laws 1990,
17 Chapter 75, Section 8, as amended) is repealed.

18 NNN. Section 61-30-9 NMSA 1978 (being Laws 1990,
19 Chapter 75, Section 9, as amended) is repealed.

20 OOO. Section 61-30-10 NMSA 1978 (being Laws 1990,
21 Chapter 75, Section 10, as amended) is repealed.

22 PPP. Section 61-30-10.1 NMSA 1978 (being Laws 1992,
23 Chapter 54, Section 8, as amended) is repealed.

24 QQQ. Section 61-30-11 NMSA 1978 (being Laws 1990,
25 Chapter 75, Section 11, as amended) is repealed.

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1 RRR. Section 61-30-12 NMSA 1978 (being Laws 1990,
2 Chapter 75, Section 12, as amended) is repealed.

3 SSS. Section 61-30-13 NMSA 1978 (being Laws 1990,
4 Chapter 75, Section 13, as amended) is repealed.

5 TTT. Section 61-30-14 NMSA 1978 (being Laws 1990,
6 Chapter 75, Section 14, as amended) is repealed.

7 UUU. Section 61-30-15 NMSA 1978 (being Laws 1990,
8 Chapter 75, Section 15, as amended) is repealed.

9 VVV. Section 61-30-16 NMSA 1978 (being Laws 1990,
10 Chapter 75, Section 16, as amended) is repealed.

11 WWW. Section 61-30-17 NMSA 1978 (being Laws 1990,
12 Chapter 75, Section 17, as amended) is repealed.

13 XXX. Section 61-30-18 NMSA 1978 (being Laws 1990,
14 Chapter 75, Section 18, as amended) is repealed.

15 YYY. Section 61-30-19 NMSA 1978 (being Laws 1990,
16 Chapter 75, Section 19, as amended) is repealed.

17 ZZZ. Section 61-30-20 NMSA 1978 (being Laws 1990,
18 Chapter 75, Section 20, as amended) is repealed.

19 AAAA. Section 61-30-21 NMSA 1978 (being Laws 1990,
20 Chapter 75, Section 21, as amended) is repealed.

21 BBBB. Section 61-30-22 NMSA 1978 (being Laws 1990,
22 Chapter 75, Section 22, as amended) is repealed.

23 CCCC. Section 61-30-24 NMSA 1978 (being Laws 1993,
24 Chapter 269, Section 21, as amended) is repealed.

25 Section 57. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is July 1, 2010.

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