

1 SENATE BILL 246

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

3 INTRODUCED BY

4 Phil A. Griego

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10 AN ACT

11 RELATING TO REAL ESTATE; AMENDING THE REAL ESTATE APPRAISERS
12 ACT TO PROVIDE FOR ACTION BY THE REAL ESTATE APPRAISERS BOARD
13 WITHIN ONE YEAR FOLLOWING A COMPLAINT IN ORDER TO COMPLY WITH
14 FEDERAL LAW.

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

17 SECTION 1. Section 61-30-15 NMSA 1978 (being Laws 1990,
18 Chapter 75, Section 15, as amended) is amended to read:

19 "61-30-15. REFUSAL, SUSPENSION OR REVOCATION OF
20 REGISTRATION, LICENSE OR CERTIFICATE.--

21 A. The board, consistent with Section 61-30-7 NMSA
22 1978, shall refuse to issue or renew a registration, license or
23 certificate or shall suspend or revoke a registration, license
24 or certificate at any time when the applicant, state apprentice
25 real estate appraiser, state licensed real estate appraiser or

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1 state certified real estate appraiser, in performing or
2 attempting to perform any of the actions set forth in the Real
3 Estate Appraisers Act, is determined by the board to have:

4 (1) procured or attempted to procure a
5 registration, license or certificate by knowingly making a
6 false statement or submitting false information or through any
7 form of fraud or misrepresentation;

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

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

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

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

25 (6) willfully disregarded or violated any of

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1 the provisions of the Real Estate Appraisers Act or the rules
2 of the board adopted pursuant to that act;

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

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

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

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1 dishonesty or any unlawful act.

2 B. The board, consistent with Section 61-30-7 NMSA
3 1978, shall refuse to issue or renew a registration, license or
4 certificate and shall suspend or revoke a registration, license
5 or certificate at any time when the board determines that the
6 applicant or state apprentice real estate appraiser, state
7 licensed real estate appraiser or state certified real estate
8 appraiser, in the performance of real estate appraisal work,
9 has:

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

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

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

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

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1 C. The action of the board relating to the
2 issuance, suspension or revocation of any registration, license
3 or certificate shall be governed by the provisions of the
4 Uniform Licensing Act and federal statutes, regulations and
5 policies, including the requirement that final state agency
6 administrative decisions regarding complaints occur within one
7 year of the complaint. The board shall participate in any
8 hearings required or conducted by the board pursuant to the
9 provisions of the Uniform Licensing Act.

10 D. The provisions of the Criminal Offender
11 Employment Act shall govern any consideration of criminal
12 records required or permitted under the Real Estate Appraisers
13 Act.

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