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AN ACT

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

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

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

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

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

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

(2) refused to provide complete information

1 in response to a question in an application for registration,
2 a license or certificate or failed to meet the minimum
3 qualifications established by the Real Estate Appraisers Act;

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

8 (4) been convicted of a crime that is
9 substantially related to the qualifications, functions and
10 duties of the person developing real estate appraisals and
11 communicating real estate appraisals to others;

12 (5) committed an act involving dishonesty,
13 fraud or misrepresentation or by omission engaged in a
14 dishonest or fraudulent act or misrepresentation with the
15 intent to substantially benefit the registration, license or
16 certificate holder or another person or with the intent to
17 substantially injure another person;

18 (6) willfully disregarded or violated any of
19 the provisions of the Real Estate Appraisers Act or the rules
20 of the board adopted pursuant to that act;

21 (7) accepted an appraisal assignment when
22 the employment itself is contingent upon the real estate
23 appraiser reporting a predetermined analysis or opinion or
24 where the fee to be paid for the performance of the appraisal
25 assignment is contingent upon the opinion, conclusion or

1 valuation reached or upon the consequences resulting from the
2 appraisal assignment; provided that a contingent fee
3 agreement is permitted for the rendering of special services
4 not constituting an appraisal assignment and the acceptance
5 of a contingent fee is clearly and prominently stated on the
6 written appraisal report;

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

15 (9) committed any other conduct that is
16 related to dealings as a state apprentice real estate
17 appraiser, state licensed real estate appraiser or state
18 certified real estate appraiser and that constitutes or
19 demonstrates bad faith, untrustworthiness, impropriety,
20 fraud, dishonesty or any unlawful act.

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

1 state licensed real estate appraiser or state certified real
2 estate appraiser, in the performance of real estate appraisal
3 work, has:

4 (1) repeatedly failed to observe one or more
5 of the standards for the development or communication of real
6 estate appraisals set forth in the rules adopted pursuant to
7 the Real Estate Appraisers Act;

8 (2) repeatedly failed or refused, without
9 good cause, to exercise reasonable diligence in developing an
10 appraisal, preparing an appraisal report or communicating an
11 appraisal;

12 (3) repeatedly been negligent or incompetent
13 in developing an appraisal, in preparing an appraisal report
14 or in communicating an appraisal; or

15 (4) violated the confidential nature of
16 records to which the state apprentice real estate appraiser,
17 state licensed real estate appraiser or state certified real
18 estate appraiser gained access through employment or
19 engagement as such an appraiser.

20 C. The action of the board relating to the
21 issuance, suspension or revocation of any registration,
22 license or certificate shall be governed by the provisions of
23 the Uniform Licensing Act; provided that the time limitations
24 set forth in the Uniform Licensing Act shall not apply to the
25 processing of administrative complaints filed with the board,

1 which shall be governed by federal statute, regulation or
2 policy. The board shall participate in any hearings required
3 or conducted by the board pursuant to the provisions of the
4 Uniform Licensing Act.

5 D. The provisions of the Criminal Offender
6 Employment Act shall govern any consideration of criminal
7 records required or permitted under the Real Estate
8 Appraisers Act.

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

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