

**This is an amendment to 16.61.3 NMAC, Section 9 and 15, effective 2/25/2022.**

**16.61.3.9 EXAMINATION AND LICENSING REQUIREMENTS:**

**A.** Associate broker's license: prior to applying for an associate broker's license, an applicant must pass both a national broker examination prescribed by the commission, and the New Mexico real estate broker's examination prescribed by the commission.

**B.** Examination application.

(1) Applications to take the prescribed broker's examination(s) are made directly to the commission's examination contractor on a form prescribed by the commission and provided by the contractor in a candidate information bulletin. Along with the application form, an applicant must submit certificates of completion of commission-approved 30-hour pre-licensing courses in real estate principles and practice, real estate law, and broker basics. These pre-licensing courses must have been completed within the three years prior to application to take the examinations. Exam candidates who are licensed as associate brokers and are taking the broker's examination to upgrade to qualifying broker are exempt from the three-year time limit and must only provide documentation of course completion.

(2) Exam candidates originally licensed as real estate salespersons or brokers or licensees in other states or jurisdictions may apply for waivers from completing the real estate principles and practice and real estate law courses in New Mexico and from taking the national portion of the broker's examination if they can provide a certified license history from their resident licensing jurisdiction documenting that they have completed these courses or their equivalent. A New Mexico associate broker upgrading to qualifying broker will be exempt from taking the national portion of the broker's exam.

(3) Except in a case of a license applicant from a state or jurisdiction with which the New Mexico real estate commission has a written license recognition agreement, an exam applicant cannot be exempted from completing the commission-approved 30-hour broker basics course.

(4) License applicants currently licensed by state or jurisdiction with which the commission has a written license recognition agreement are not required to take any of the prescribed pre-licensing courses or take either portion of the broker's examination to be eligible to apply for a New Mexico broker's license.

(5) Exam applicants exempted from taking the real estate principles and practice and real estate law courses by virtue of having a current real estate broker's license in another state shall attach to their examination application a letter of pre-licensing education waiver from the commission and a certificate of completion of the 30-hour broker basics course.

(6) All other applicants for the examination shall attach to their license examination application certificates documenting completion of one 30-hour pre-licensing course each in real estate principles and practice, real estate law, and broker basics.

(7) At the time of making application to take the examination, applicants shall pay to the commission's examination contractor a non-refundable fee not to exceed \$95.

(8) Applicants are required to pass both the state and national portions of the examination with a minimum score of 75 no later than 90 calendar days after the first time they took the examination. Applicants failing to pass both portions of the examination within this time frame will be required to re-take and pass both portions of the examination before being eligible to apply for a broker's license.

**C.** Associate Broker License application.

(1) Upon passing both portions of the New Mexico real estate broker's examination, an individual has six months to apply for an associate broker's license on the application prescribed by the commission.

(2) An individual who fails to apply for an associate broker's license within six months of having passed both portions of the broker's examination shall be required to re-take both portions of the examinations six month deadline.

(3) An applicant for an associate broker's license shall be a legal resident of the United States and have reached the age of majority in New Mexico or in the state in which the applicant resides.

(4) Along with the license application form prescribed by the commission, the applicant must submit a written score report provided by the examination contractor documenting that the applicant has passed both portions of the examination with a minimum score of 75, documentation of having been fingerprinted for purposes of matching with state and national arrest record databases, a certificate of insurance documenting that the applicant has a current errors and omissions insurance policy that meets the requirements for such insurance as described in 16.61.5 NMAC of the commission rules, and a non-refundable license application fee not to exceed \$270. Recent veteran applicants and military service members, their spouses and dependent children, are exempt from the license application fee for the first period of licensure.

**D.** Qualifying broker's license examination: there is no separate qualifying broker's examination.

~~**E.** Military service members and recent veterans.~~

~~(1) The commission shall, process the application and issue a license to the spouse of a military service member, a dependent child of a military service member, or a recent veteran that meets all the requirements for licensure as a real estate broker in New Mexico.~~

~~(2) A license issued pursuant to this part is not a provisional license and confers the same rights, privileges, and responsibilities as any other license issued by the commission.~~

~~(3) A license issued pursuant to this part shall not be renewed unless the licensee satisfies the commission's requirements for license renewal.~~

~~(4) Military service members and recent veteran applicants, their spouses and dependent children, are exempt from the license application fee for the first period of licensure.]~~

**E.** Expedited licensure for military service members, spouses, children, and veterans.

**(1)** Applicants for licensure shall meet the following requirements:

**(a)** complete an application on a form provided by the real estate commission.

**(b)** include on the application the applicant's full name, current mailing address, and email address if any, date of birth, and proof of a criminal background check obtained through fingerprinting.

**(2)** The applicant shall also provide documentation that they are licensed and in good standing in another jurisdiction, including a branch of the United States armed forces, and have met the minimum licensing requirements in a jurisdiction with requirements that are substantially equivalent to New Mexico licensing requirements.

**(3)** The applicant shall provide documentation as follows:

**(a)** for a military service member, a copy of military orders;

**(b)** for a spouse of military service member, a copy of military service member's military orders, and a copy of the marriage license;

**(c)** for spouses of deceased military service members, a copy of decedent's form DD 214 and a copy of the marriage license;

**(d)** for dependent children of military service members, a copy of military service member's orders listing dependent children, or a copy of birth certificate, military service member's federal tax return or other governmental or judicial documentation establishing dependency;

**(e)** for veterans (retired or separated): a copy of form DD 214 showing proof of honorable discharge.

**(4)** The license shall be issued by the real estate commission as soon as practicable but no later than thirty days after a qualified military service member, spouse, dependent child, or veteran files a complete application, and provides proof a criminal background check obtained by fingerprinting.

**(5)** Military service members and veterans shall not pay and the real estate commission shall not charge a licensing fee for the first three years for a license issued pursuant to this rule.

**(6)** A license issued pursuant to this section shall be valid for a period of three years from the date of issuance to the last day of the month following the licensee's birth month.

**F.** License renewal requirements.

**(1)** A license issued pursuant to this section shall not be renewed unless the license holder satisfies the requirements for renewal set forth in 16.61.11.8 NMAC pursuant to Chapter 61, Article 61-29-11 D NMSA 1978.

**(2)** As a courtesy, the real estate commission will send via electronic mail license renewal notifications to licensees before the license expiration date to the last known email address on file with the board. Failure to receive the renewal notification shall not relieve the licensee of the responsibility of timely renewal on or before the expiration date.

[16.61.3.9 NMAC – Rp, 16.61.3.9, 1/15/2018; A, 1/3/2021; A, 1/25/2022]

### **16.66.3.15 FELONY CRIMINAL CONVICTIONS:**

**A.** Felony convictions for any of the following offenses, or their equivalents in any other jurisdiction, are disqualifying felony criminal convictions that may disqualify an applicant from receiving or retaining a license issued by the real estate commission. This includes a felony conviction of an offense which if committed in this state, would be deemed a felony under either state or federal law, without regard to its designation elsewhere. The term "conviction" shall include a finding or verdict of guilt, a plea of guilty, or a plea of nolo contendere in a criminal proceeding, regardless of whether the adjudication of guilt or sentence is withheld or not entered thereon, or an appeal of the conviction has been sought. These felony convictions include:

- (1) homicide, voluntary or involuntary manslaughter;
- (2) trafficking in controlled substances, manufacturing of controlled substances or distribution of controlled substances;
- (3) human trafficking, kidnapping, false imprisonment, aggravated assault or aggravated battery;
- (4) rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, or other related felony sexual offenses;
- (5) crimes involving adult abuse, neglect, or financial exploitation;
- (6) crimes involving child abuse or neglect;
- (7) crimes involving robbery, larceny, extortion, burglary, possession of burglary tools, destruction of property, criminal damage to property, unlawful or dangerous uses of explosives, breaking and entering, arson, making a bomb scare, tampering with evidence or receiving stolen property; and,
- (8) financial crimes involving fraud, forgery, embezzlement, and credit card fraud.

**B.** The real estate commission shall not consider the fact of a criminal conviction as part of an application for licensure unless the conviction in question is one of the disqualifying criminal convictions listed in Subsection A of this rule.

**C.** The real estate commission shall not deny, suspend or revoke a license on the sole basis of a criminal conviction unless the conviction in question is one of the disqualifying criminal convictions listed in Subsection A of this rule, and without a hearing as provided in the uniform licensing act.

**D.** Nothing in this rule prevents the real estate commission from denying an application or disciplining a licensee on the basis of an individual's conduct to the extent that such conduct violated the real estate license law, regardless of whether the individual was convicted of a felony crime for such conduct or whether the felony crime for which the individual was convicted is listed as one of the disqualifying felony criminal convictions listed in Subsection A of this rule.

**E.** In connection with an application for licensure, the real estate commission shall not use, distribute, disseminate, or admit into evidence at an adjudicatory proceeding criminal records of any of the following:

- (1) an arrest not followed by a valid conviction;
- (2) a conviction that has been sealed, dismissed, expunged or pardoned;
- (3) a juvenile adjudication; or
- (4) a conviction for any crime other than the disqualifying felony criminal convictions listed in Subsection A of this rule.

[16.61.3.15 NMAC - N, 1/25/2022]