



The Legislature
of the
State of New Mexico

50th Legislature, 1st Session

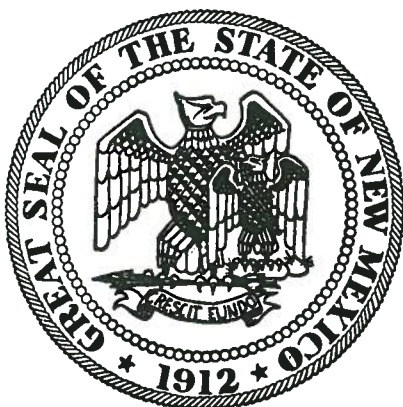
LAWS 2011

CHAPTER 85

SENATE BILL 105, as amended

Introduced by

SENATOR TIM EICHENBERG



Chapter 85

AN ACT

1
2 RELATING TO LICENSING; CLARIFYING THE DEFINITION OF "BROKER"
3 AND WHAT ACTIVITIES ARE EXEMPTED FROM BROKER LICENSING;
4 EXTENDING CONTINUING EDUCATION REQUIREMENTS TO BROKERS OVER
5 THE AGE OF SIXTY-FIVE EXCEPT FOR THOSE EXEMPT; PROVIDING FOR
6 FINGERPRINTING AND CRIMINAL HISTORY BACKGROUND CHECKS FOR
7 LICENSE APPLICANTS; ADJUSTING FEES; REMOVING CORPORATIONS,
8 PARTNERSHIPS AND ASSOCIATIONS FROM BROKER LICENSING; ALLOWING
9 FOR AND REGULATING FOREIGN AND NONRESIDENT BROKERS; AMENDING
10 THE PENALTIES FOR UNLICENSED ACTIVITY; LOWERING THE MINIMUM
11 BALANCE REQUIRED IN THE REAL ESTATE RECOVERY FUND; AMENDING
12 AND REPEALING SECTIONS OF THE NMSA 1978.

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. Section 61-29-2 NMSA 1978 (being Laws 1999,
16 Chapter 127, Section 1, as amended) is amended to read:

17 "61-29-2. DEFINITIONS AND EXCEPTIONS.--

18 A. As used in Chapter 61, Article 29 NMSA 1978:

19 (1) "agency relationship" means the
20 fiduciary relationship created solely by an express written
21 agency agreement between a person and a brokerage,
22 authorizing the brokerage to act as an agent for the person
23 according to the scope of authority granted in that express
24 written agreement for real estate services subject to the
25 jurisdiction of the commission;

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

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

14 (4) "broker" or "qualifying broker" means a
15 person who for compensation or other consideration from
16 another:

17 (a) lists, sells or offers to sell real
18 estate; buys or offers to buy real estate; or negotiates the
19 purchase, sale or exchange of real estate or options on real
20 estate;

21 (b) is engaged in managing property for
22 others;

23 (c) leases, rents or auctions or offers
24 to lease, rent or auction real estate;

25 (d) advertises or makes any

1 representation as being engaged in the business of buying,
2 selling, exchanging, renting, leasing, auctioning or dealing
3 with options on real estate for others as a whole or partial
4 vocation; or

5 (e) engages in the business of charging
6 an advance fee or contracting for collection of a fee in
7 connection with a contract under which the broker or
8 qualifying broker undertakes primarily to promote the sale of
9 real estate through its listing in a publication issued
10 primarily for that purpose or for the purpose of referral of
11 information concerning real estate to brokers, qualifying
12 brokers or associate brokers;

13 (5) "brokerage" means a licensed qualifying
14 broker and the licensed real estate business represented by
15 the qualifying broker and its affiliated licensees;

16 (6) "brokerage relationship" means the legal
17 or contractual relationship between a person and a brokerage
18 in a real estate transaction subject to the jurisdiction of
19 the commission;

20 (7) "client" means a buyer, seller, landlord
21 or tenant who has entered into an express written agreement
22 with a brokerage for real estate services subject to the
23 jurisdiction of the commission;

24 (8) "commission" means the New Mexico real
25 estate commission;

1 (9) "customer" means a buyer, seller,
2 landlord or tenant who uses real estate services without
3 entering into an express written agreement with a brokerage
4 subject to the jurisdiction of the commission;

5 (10) "license" means a qualifying broker's
6 license or an associate broker's license issued by the
7 commission;

8 (11) "licensee" means a person holding a
9 valid qualifying broker's license or an associate broker's
10 license subject to the jurisdiction of the commission;

11 (12) "real estate" means land, improvements,
12 leaseholds and other interests in real property that are less
13 than a fee simple ownership interest, whether tangible or
14 intangible;

15 (13) "real estate salesperson" means a
16 person who, for compensation or other valuable consideration,
17 is associated with or engaged under contract by a broker to
18 participate in an activity described in Paragraph (4) of this
19 subsection or to carry on the broker's business as a whole or
20 partial vocation; and

21 (14) "transaction broker" means a qualifying
22 broker, associate broker or brokerage that provides real
23 estate services without entering into an agency relationship.

24 B. A single act of a person in performing or
25 attempting to perform an activity described in Paragraph (4)

1 of Subsection A of this section makes the person a qualifying
2 broker. A single act of a person in performing or attempting
3 to perform an activity described in Paragraph (3) of
4 Subsection A of this section makes the person an associate
5 broker.

6 C. The provisions of Chapter 61, Article 29 NMSA
7 1978 do not apply to:

8 (1) a person who as owner performs any of
9 the activities included in this section with reference to
10 property owned by the person, except when the sale or
11 offering for sale of the property constitutes a subdivision
12 containing one hundred or more parcels;

13 (2) the employees of the owner or the
14 employees of a qualifying broker acting on behalf of the
15 owner, with respect to the property owned, if the acts are
16 performed in the regular course of or incident to the
17 management of the property and the investments, except when
18 the sale or offering for sale of the property constitutes a
19 subdivision containing one hundred or more parcels;

20 (3) isolated or sporadic transactions not
21 exceeding two transactions annually in which a person acts as
22 attorney-in-fact under a duly executed power of attorney
23 delivered by an owner authorizing the person to finally
24 consummate and to perform under any contract the sale,
25 leasing or exchange of real estate on behalf of the owner;

1 and the owner or attorney-in-fact has not used a power of
2 attorney for the purpose of evading the provisions of Chapter
3 61, Article 29 NMSA 1978;

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

11 (5) the services rendered by an attorney at
12 law in the performance of the attorney's duties as an
13 attorney at law;

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

19 (7) the activities of a salaried employee of
20 a governmental agency acting within the scope of employment;
21 or

22 (8) persons who deal exclusively in mineral
23 leases or the sale or purchase of mineral rights or royalties
24 in any case in which the fee to the land or the surface
25 rights are in no way involved in the transaction."

1 SECTION 2. Section 61-29-4.1 NMSA 1978 (being Laws
2 1985, Chapter 89, Section 1, as amended) is amended to read:

3 "61-29-4.1. ADDITIONAL POWERS OF COMMISSION--CONTINUING
4 EDUCATION PROGRAMS--MINIMUM REQUIREMENTS.--The commission
5 shall adopt rules providing for continuing education courses
6 in selling, leasing or managing residential, commercial and
7 industrial property as well as courses in basic real estate
8 law and practice and other courses prescribed by the
9 commission. The regulations shall require that every
10 licensee except licensees who were already exempted from
11 continuing education requirements prior to the effective date
12 of this 2011 act, as a condition of license renewal,
13 successfully complete thirty classroom hours of instruction
14 every three years in courses approved by the commission. The
15 rules may prescribe areas of specialty or expertise and may
16 require that part of the classroom instruction be devoted to
17 courses in the area of a licensee's specialty or expertise."

18 SECTION 3. Section 61-29-4.4 NMSA 1978 (being Laws
19 2005, Chapter 35, Section 6) is amended to read:

20 "61-29-4.4. ADDITIONAL POWERS OF COMMISSION--
21 FINGERPRINTING AND CRIMINAL HISTORY BACKGROUND CHECKS.--

22 A. All applicants for licensure as provided for in
23 Chapter 61, Article 29 NMSA 1978 shall:

24 (1) be required to provide fingerprints on
25 two fingerprint cards for submission to the federal bureau of

1 investigation to conduct a national criminal history
2 background check and to the department of public safety to
3 conduct a state criminal history check;

4 (2) pay the cost of obtaining the
5 fingerprints and criminal history background checks; and

6 (3) have the right to inspect or challenge
7 the validity of the records resulting from the background
8 check if the applicant is denied licensure as established by
9 commission rule.

10 B. Electronic live scans may be used for
11 conducting criminal history background checks.

12 C. Criminal history records obtained by the
13 commission pursuant to the provisions of this section are
14 confidential. The commission is authorized to use criminal
15 history records obtained from the federal bureau of
16 investigation and the department of public safety to conduct
17 background checks on applicants for certification as provided
18 for in Chapter 61, Article 29 NMSA 1978.

19 D. Criminal history records obtained by the
20 commission pursuant to the provisions of this section shall
21 not be used for any purpose other than conducting background
22 checks. Criminal history records obtained pursuant to the
23 provisions of this section and the information contained in
24 those records shall not be released or disclosed to any other
25 person or agency, except pursuant to a court order or with

1 the written consent of the person who is the subject of the
2 records.

3 E. A person who releases or discloses the criminal
4 history records or information contained in those records in
5 violation of the provisions of this section is guilty of a
6 misdemeanor and shall be sentenced pursuant to the provisions
7 of Section 31-19-1 NMSA 1978."

8 SECTION 4. Section 61-29-8 NMSA 1978 (being Laws 1959,
9 Chapter 226, Section 7, as amended) is amended to read:

10 "61-29-8. LICENSE FEES--DISPOSITION.--

11 A. The following fees shall be established and
12 charged by the commission and paid into the real estate
13 commission fund:

14 (1) for each examination, a fee established
15 by the commission based on competitive bids for examination
16 services submitted to the commission in response to a
17 commission request for proposals, not to exceed ninety-five
18 dollars (\$95.00);

19 (2) for each qualifying broker's license
20 issued, a fee not to exceed two hundred seventy dollars
21 (\$270) and for each renewal thereof, a fee not to exceed two
22 hundred seventy dollars (\$270);

23 (3) for each associate broker's license
24 issued, a fee not to exceed two hundred seventy dollars
25 (\$270) and for each renewal thereof, a fee not to exceed two

1 hundred seventy dollars (\$270);

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

6 (5) for each duplicate license, where the
7 license is lost or destroyed and affidavit is made thereof, a
8 fee not to exceed twenty dollars (\$20.00);

9 (6) for each license history, a fee not to
10 exceed twenty-five dollars (\$25.00);

11 (7) for copying of documents by the
12 commission, a fee not to exceed one dollar (\$1.00) per copy;

13 (8) for each license law and rules booklet,
14 a fee not to exceed ten dollars (\$10.00) per booklet;

15 (9) for each hard copy or electronic list of
16 licensed associate brokers and qualifying brokers, a fee not
17 to exceed actual costs up to fifty dollars (\$50.00);

18 (10) for each license reissued for an
19 associate broker because of change of address of the
20 qualifying broker's office or death of the qualifying broker
21 when a successor qualifying broker is replacing the decedent
22 and the associate broker remains in the office or because of
23 a change of name of the office or the entity of the
24 qualifying broker, a fee in an amount not to exceed twenty
25 dollars (\$20.00) to be paid by the qualifying broker or

1 successor qualifying broker as the case may be; but if there
2 are eleven or more affected associate brokers in the
3 qualifying broker's office, the total fee paid to effect
4 reissuance of all of those licenses shall not exceed two
5 hundred dollars (\$200);

6 (11) for each application to the commission
7 to become an approved sponsor of prelicensing and continuing
8 education courses, a fee not to exceed five hundred dollars
9 (\$500) and for each renewal thereof, a fee not to exceed five
10 hundred dollars (\$500);

11 (12) for each application to the commission
12 to become an approved instructor of prelicensing and
13 continuing education courses, a fee not to exceed seventy
14 dollars (\$70.00) per course; and

15 (13) for each application to the commission
16 to renew certification as a commission-approved instructor, a
17 fee not to exceed one hundred dollars (\$100).

18 B. All fees set by the commission shall be set by
19 rule and only after all requirements have been met as
20 prescribed by Chapter 61, Article 29 NMSA 1978. Any changes
21 or amendments to the rules shall be filed in accordance with
22 the State Rules Act.

23 C. The commission shall deposit all money received
24 by it from fees in accordance with the provisions of Chapter
25 61, Article 29 NMSA 1978 with the state treasurer, who shall

1 keep that money in a separate fund to be known as the "real
2 estate commission fund", and money so deposited in that fund
3 is appropriated to the commission for the purpose of carrying
4 out the provisions of Section 61-29-4 NMSA 1978 or to
5 maintain the real estate recovery fund as required by the
6 Real Estate Recovery Fund Act and shall be paid out of the
7 fund upon the vouchers of the executive secretary of the
8 commission or the executive secretary's designee; provided
9 that the total fees and charges collected and paid into the
10 state treasury and any money so deposited shall be expended
11 only for the purposes authorized by Chapter 61, Article 29
12 NMSA 1978."

13 SECTION 5. Section 61-29-9 NMSA 1978 (being Laws 1959,
14 Chapter 226, Section 8, as amended) is amended to read:

15 "61-29-9. QUALIFICATIONS FOR LICENSE.--

16 A. Licenses shall be granted only to persons who
17 meet the requirements for licensure prescribed by law and are
18 deemed by the commission to be of good repute and competent
19 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

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

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

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

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

24 D. A licensee holding a current real estate
25 salesperson's license on the effective date of this 2005 act

1 shall automatically qualify for an associate broker's license
2 without any additional requirements. However, to be eligible
3 to apply for a qualifying broker's license, a real estate
4 salesperson obtaining an associate broker's license pursuant
5 to this subsection shall, in addition to meeting all other
6 requirements for a qualifying broker's license, pass a real
7 estate broker's examination approved by the commission.

8 E. The commission shall require the information it
9 deems necessary from every applicant to determine that
10 applicant's honesty, trustworthiness and competency."

11 SECTION 6. Section 61-29-12 NMSA 1978 (being Laws 1959,
12 Chapter 226, Section 11, as amended) is amended to read:

13 "61-29-12. REFUSAL, SUSPENSION OR REVOCATION OF LICENSE
14 FOR CAUSES ENUMERATED.--

15 A. The commission may refuse to issue a license or
16 may suspend, revoke, limit or condition a license if the
17 applicant or licensee has by false or fraudulent
18 representations obtained a license or, in performing or
19 attempting to perform any of the actions specified in Chapter
20 61, Article 29 NMSA 1978, an applicant or licensee has:

- 21 (1) made a substantial misrepresentation;
22 (2) pursued a continued and flagrant course
23 of misrepresentation; made false promises through agents,
24 salespersons, advertising or otherwise; or used any trade
25 name or insignia of membership in any real estate

1 organization of which the licensee is not a member;

2 (3) paid or received a rebate, profit,
3 compensation or commission to or from any unlicensed person,
4 except the licensee's principal or other party to the
5 transaction, and then only with that principal's written
6 consent;

7 (4) represented or attempted to represent a
8 qualifying broker other than a qualifying broker with whom
9 the licensee is associated without the express knowledge and
10 consent of that qualifying broker;

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

18 (6) been convicted in any court of competent
19 jurisdiction of a felony or any offense involving moral
20 turpitude;

21 (7) employed or compensated, directly or
22 indirectly, a person for performing any of the acts regulated
23 by Chapter 61, Article 29 NMSA 1978 who is not a licensed
24 qualifying broker or an associate broker; provided, however,
25 that a qualifying broker may pay a commission to a qualifying

1 broker of another state as provided in Section 61-29-16.1
2 NMSA 1978;

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

1 cooperating broker who shall in turn comply with this
2 paragraph;

3 (9) failed, if an associate broker, to place
4 as soon after receipt as is practicably possible in the
5 custody of the associate broker's qualifying broker, after
6 securing signatures of all parties to the transaction, any
7 deposit money or other money entrusted to the associate
8 broker by any person dealing with the associate broker as the
9 representative of the qualifying broker;

10 (10) violated a provision of Chapter 61,
11 Article 29 NMSA 1978 or a rule promulgated by the commission;

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

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

23 B. An unlawful act or violation of Chapter 61,
24 Article 29 NMSA 1978 by an associate broker, employee,
25 partner or associate of a qualifying broker shall not be

1 cause for the revocation of a license of the qualifying
2 broker unless it appears to the satisfaction of the
3 commission that the qualifying broker had guilty knowledge of
4 the unlawful act or violation."

5 SECTION 7. Section 61-29-16.1 NMSA 1978 (being Laws
6 2005, Chapter 35, Section 15) is amended to read:

7 "61-29-16.1. FOREIGN BROKERS--NONRESIDENT
8 LICENSEES.--

9 A. A foreign associate broker or qualifying broker
10 currently licensed by another state or licensing jurisdiction
11 other than New Mexico may engage in real estate activity in
12 New Mexico as a foreign broker; provided that the foreign
13 broker enters into a transaction-specific written agreement
14 with a New Mexico licensed qualifying broker prior to
15 commencing such real estate activity. The foreign broker
16 shall comply with all New Mexico laws, including those acts
17 regulated by Chapter 61, Article 29 NMSA 1978.

18 B. An associate broker or qualifying broker with a
19 license application address that is not within the state of
20 New Mexico shall file with the commission an irrevocable
21 consent that lawsuits and actions may be commenced against
22 the associate broker or qualifying broker in the proper court
23 of any county of this state in which a cause of action may
24 arise or in which the plaintiff may reside, by service on the
25 commission of any process or pleadings authorized by the laws

1 of this state, the consent stipulating and agreeing that such
2 service of process or pleadings on the commission is as valid
3 and binding as if personal service had been made upon the
4 associate broker or qualifying broker in New Mexico. Service
5 of process or pleadings shall be served in duplicate upon the
6 commission; one shall be filed in the office of the
7 commission and the other immediately forwarded by certified
8 mail to the main office of the associate broker or qualifying
9 broker against whom the process or pleadings are directed."

10 SECTION 8. Section 61-29-17 NMSA 1978 (being Laws 1965,
11 Chapter 304, Section 8, as amended) is amended to read:

12 "61-29-17. PENALTY--INJUNCTIVE RELIEF.--

13 A. Any person who violates any provision of
14 Chapter 61, Article 29 NMSA 1978 is guilty of a fourth degree
15 felony and shall be punished by a fine of not more than five
16 thousand dollars (\$5,000) or by imprisonment for a definite
17 term of eighteen months, or both.

18 B. In the event any person has engaged or proposes
19 to engage in any act or practice violative of a provision of
20 Chapter 61, Article 29 NMSA 1978, the attorney general or the
21 district attorney of the judicial district in which the
22 person resides or the judicial district in which the
23 violation has occurred or will occur shall, upon application
24 of the commission, maintain an action in the name of the
25 state to prosecute the violation or to enjoin the proposed

1 act or practice.

2 C. In any action brought under Subsection B of
3 this section, if the court finds that a person is engaged or
4 has willfully engaged in any act or practice violative of a
5 provision of Sections 61-29-1 through 61-29-18 NMSA 1978, the
6 attorney general or the district attorney of the judicial
7 district in which the person resides or the judicial district
8 in which the violation has occurred or is occurring shall,
9 upon petition to the court, recover on behalf of the state a
10 civil penalty not exceeding five thousand dollars (\$5,000)
11 per violation and attorney fees and costs."

12 SECTION 9. Section 61-29-17.2 NMSA 1978 (being Laws
13 2001, Chapter 163, Section 11) is amended to read:

14 "61-29-17.2. UNLICENSED ACTIVITY--CIVIL PENALTY--
15 ADMINISTRATIVE COSTS.--The commission may impose a civil
16 penalty on any person who is found, through a court or
17 administrative proceeding, to have acted in violation of
18 Chapter 61, Article 29 NMSA 1978 in an amount not to exceed
19 one thousand dollars (\$1,000) for each violation or, if the
20 commission can so determine, in the amount of the total
21 commissions received by the person for the unlicensed
22 activity. The commission may assess administrative costs for
23 any investigation and administrative or other proceedings
24 against any such person. Any money collected by the
25 commission under the provisions of this section shall be

1 deposited into the real estate recovery fund."

2 SECTION 10. Section 61-29-22 NMSA 1978 (being Laws
3 1980, Chapter 82, Section 3, as amended) is amended to read:

4 "61-29-22. ADDITIONAL FEES.--

5 A. The commission shall collect an annual fee not
6 in excess of ten dollars (\$10.00) from each real estate
7 licensee prior to the issuance of the next license.

8 B. The commission shall collect from each
9 successful applicant for an original real estate license, in
10 addition to the original license fee, a fee not in excess of
11 ten dollars (\$10.00).

12 C. The additional fees provided by this section
13 shall be credited to the real estate recovery fund. The
14 amount of the real estate recovery fund shall be maintained
15 at one hundred fifty thousand dollars (\$150,000). If the
16 real estate recovery fund falls below this amount, the
17 commission shall have authority to adjust the annual amount
18 of additional fees to be charged licensees or to draw on the
19 real estate commission fund in order to maintain the fund
20 level as required in this section. If on July 1 of any year,
21 the balance in the fund exceeds four hundred thousand dollars
22 (\$400,000), the amount over four hundred thousand dollars
23 (\$400,000) shall be transferred to the real estate commission
24 fund to be used for the purposes of carrying out the
25 provisions of Chapter 61, Article 29 NMSA 1978."

1 SECTION 11. REPEAL.--Section 61-29-19 NMSA 1978 (being
2 Laws 1978, Chapter 203, Section 2, as amended) is repealed.

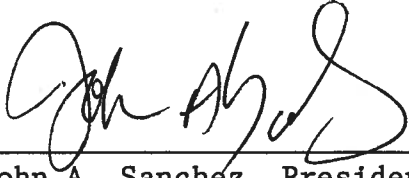
3 SECTION 12. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2011. _____

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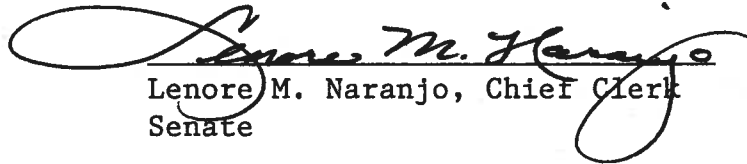


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John A. Sanchez, President
Senate



Lenore M. Naranjo, Chief Clerk
Senate

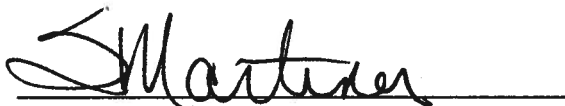


Ben Lujan, Speaker
House of Representatives



Stephen R. Arias, Chief Clerk
House of Representatives

Approved by me this 6th day of April, 2011



Governor Susana Martinez
State of New Mexico

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