

NEW MEXICO REAL ESTATE COMMISSION NOTICE OF PUBLIC RULE HEARING AND REGULAR BOARD MEETING

The New Mexico Real Estate Commission will hold a rule hearing on Thursday, December 30, 2021, at 9:00 a.m. Following the rule hearing, the Commission will convene a regular board meeting to adopt the rules and conduct regular business.

The rule hearing and board meeting will be held by Zoom hosted by the Greater Albuquerque Association of Realtors, 1635 University Boulevard NW, Albuquerque, New Mexico 87102.

The Zoom link to the rule hearing and meeting is:

https://gaar.zoom.us/meeting/register/tZEpfu6urjojGtFvx28oMmqL_CrXBpyeOZIS

Please register in advance for this meeting.

After registering, you will receive a confirmation email containing information about joining the meeting.

The purpose of the rule hearing is to consider proposed amendments to the following rules:

16.61.1.7 PP and RR NMAC – General Provisions and Definitions

PP. Property management

RR. Property Manager

16.61.3.9 NMAC – Licensure for Military Service Members, Spouses, Dependent Children and Veterans

16.61.3.9 NMAC-Criminal Convictions

To obtain and review copies of the proposed changes and public comments, you may go to the Board's website at <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/real-estate-commission/rec-board-information/> or contact Commission Executive Secretary Wayne W. Ciddio by phone at (505) 785-3937 or by email at wayne.ciddio.state.nm.gov.

The Board is currently accepting public written comments on the proposed amendments.

Please submit written comments on the proposed changes to Wayne W. Ciddio, Commission Executive Secretary by email to wayne.ciddio@state.nm.gov or by regular mail at 5500 San Antonio Drive NE, Albuquerque, New Mexico 87109, no later than Thursday, December 30, 2021. Written comments received prior to the rule hearing will be posted to the RLD website at <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/real-estate-commission/rec-board-information/>. Real estate brokers and members of the public will also be given the opportunity to present their written or oral comments at the public rule hearing.

The agenda for the rule hearing and Commission meeting will be posted and available at least 72 hours before the rule hearing and meeting on the Board website at <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/real-estate-commission/rec-board-information/>. The agenda may also be obtained by contacting Commission Executive Secretary Wayne W. Ciddio, at (505) 785-3937 or by email at wayne.ciddio@state.nm.gov.

An individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing, please contact Commission Executive Secretary Wayne W. Ciddio at (505) 785-3937.

Statutory Authority: Real Estate Brokers and Salesmen, 61.29.4 NMSA 1978, Creation of Commission, powers and duties. Authorizes the Commission to make and enforce rules to carry out the provisions of the Real Estate Brokers and Salesmen Act.

The purpose of the rule hearing is four-fold: The purpose of the rule hearing is to

(1) Receive written and oral comments from the public on enacting a new section under 16-61.3.9 NMAC – Licensure for Military Service Members, Spouses, Dependent Children and Veterans to comply with 2021 Legislative changes made during the regular session in HB 120 Military Spouses Expedited Licensure signed into law by Governor Lujan Grisham on April 6, 2021.

(2) Receive written and oral comments on enacting a new paragraph under 16.61.3.9 NMAC to comply with 2021 legislative changes made during the special session in Senate Bill 2 to comply with Expungement of Certain Records signed into law by the Governor Lujan Grisham on April 12, 2021.

(3) Receive written and oral comments on enacting new definitions made necessary by the enactment of House Bill 120 to wit:

License.

Licensing Fee.

Military service member.

Substantially equivalent.

Veteran.

(4) Receive written and oral comments on enacting a new definition made necessary by the enactment of Senate Bill 2, to wit:

Disqualifying criminal conviction.

Summary of Proposed Changes:

16.61.1.7 NMAC – General Provisions and Definitions

The Commission will consider a proposal by the Community Associations Institute to repeal the definitions of Property Manager and Property Management as they relate to homeowners associations (HOA).

The language of concern to the Community Associations Institute in the definition of Property Manager is Property management: real estate services as specified by a written management agreement between a property owner or owner association and a third party management company and who conducts property management activities on behalf of a homeowners' or unit owners' association.

The language of concern to the Community Associations Institute in the definition of Property Manager is Property manager: a broker who, for a fee, salary, commission or other valuable consideration is engaged in management property for others including homeowners or unit owners' association.

The Commission will consider new definitions for License, Licensing Fee, Military Service Member, Substantially Equivalent, and Disqualifying Criminal Convictions, as they relate to House Bill 120 and Senate Bill 2.

The Commission will consider what criminal felony convictions directly relate to the particular employment, trade, business or profession of real estate that may disqualify the applicant or licensee from holding a real estate broker's license. The rule also defines how the conviction may and may not be used when reviewing an application for licensure.

16.61.3.9 NMAC – Licensure for Military Service Members, Spouses, Dependent Children and Veterans

The amendments to this part includes a repeal and replace of 16-61-3-9 E NMAC due to the 2021 legislative change regarding HB120 Military Spouses Expedited Licensure. The proposed rule changes the time for approving an

application for license from sixty days to thirty days and removes “recent” from the definition of veteran. The rule also sets out application and renewal requirements and waives the initial licensing fee for Military Service Members, Spouses, Dependent Children and Veterans.

16.61.3.9 NMAC-Criminal Convictions

The proposed rule establishes a new paragraph specifying what criminal felony convictions directly relate to the particular employment, trade, business or profession of a real estate broker that may disqualify the applicant or licensee from holding a license. The rule also defines how the conviction may and may not be used when reviewing an application for licensure or for violation of the Real Estate Broker and Salesmen Act or Commission Rules.