

PUBLIC RULE HEARING AND REGULAR BOARD MEETING

The New Mexico Real Estate Appraisers Board (Board) will hold a rule hearing on Friday, September 10, 2021, at 9:00 a.m. Following the rule hearing, the Board will convene a board meeting to consider adoption of the rules and address regular business. The rule hearing and board meeting will be held at the Regulation & Licensing Department, 2550 Cerrillos Road, Santa Fe, New Mexico, in the Rio Grande Room. The hearing and meeting will also be accessible by virtual means, with the link to the livestream available on the Board's website at the following internet link:

<https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/real-estate-appraisers/real-estate-appraisers-board-information/>

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

- 16.62.2 NMAC – Application for Trainee
- 16.62.3 NMAC – Application for Licensed Residential
- 16.62.4 NMAC – Application for Residential Certificate
- 16.62.5 NMAC – Application for General Certificate
- 16.62.13 NMAC – Disciplinary Proceedings
- 16.62.18 NMAC – Licensure for Military Members, Spouses and Veterans
- 16.65.2 NMAC – Registration Requirements
- 16.65.3 NMAC – Application for Registration
- 16.65.4 NMAC – Discipline

To obtain and review copies of the proposed changes you may go to the Board's website at:

<https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/real-estate-appraisers/> or contact the New Mexico Real Estate Appraisers Board at (505)476-4622 or by email at nm.reab@state.nm.us.

The Board is currently accepting public comments on the proposed amendments. Please submit written comments on the proposed changes to Theresa Montoya, Board Administrator, via electronic mail at nm.reab@state.nm.us or by regular mail at P.O. Box 25101, Santa Fe, NM 87504, no later than Friday, September 10, 2021. Persons will also be given the opportunity to present their comments at the rule hearing. All written comments will be posted to the Board's website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/real-estate-appraisers/>, no more than three business days following receipt to allow for public viewing.

An individual with a disability who is in need of a reader, amplifier, qualified signed language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing, please contact Theresa Montoya, Board Administrator at (505) 476-4622.

Statutory Authority: Section 61-30-7(A) of the Real Estate Appraisers Act, NMSA 1978, Sections 61-30-1 through -24 (1990, as amended through 2021), authorizes the Board to “adopt rules necessary to implement the provisions of the Real Estate Appraisers Act.” Section 47-14-23 of the Appraisal Management Company Registration Act, NMSA 1978, Sections 47-14-1 through -23 (2009, as amended through 2013), also authorizes the Board to “adopt rules that are reasonably necessary to implement, administer and enforce the provisions of the Appraisal Management Company Registration Act, including rules for obtaining copies of appraisals and other documents necessary to audit compliance with the Appraisal Management Company Registration Act.” Finally, Section 61-1-36 of the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 to -36 (1957, as amended through 2021), requires the Board to “promulgate and post on the board's website rules relating to licensing requirements to

list the specific criminal convictions that could disqualify an applicant from receiving a license on the basis of a previous felony conviction.”

Purpose of the proposed rules:

The proposed rules are intended to provide greater clarity in existing regulatory and statutory requirements, ensure continued high levels of professionalism among licensees and registrants, and to generally satisfy the Board’s statutory obligation to ensure “the protection of those persons relying upon real estate appraisals.” NMSA 1978, Section 61-30-2(B). In addition, several of the proposed rule changes are intended to address recent statutory changes to the Uniform Licensing Act. See S.B. 2, 55th Leg., 1st S.S. (N.M. 2021), available at <https://www.nmlegis.gov/Sessions/21%20Special/final/SB0002.pdf>, and H.B. 120, 55th Leg., 1st Sess. (N.M. 2021), available at <https://www.nmlegis.gov/Sessions/21%20Regular/final/HB0120.pdf>.

Summary of Proposed Changes:

The Board summarizes its proposed changes to its administrative rules as follows:

16.62.2 NMAC – Application for Trainee

As a general summary, the proposed changes to 16.62.2 NMAC clarify existing provisions (including those outlining the eligibility of appraisers to supervise trainees), add new language permitting the Board to accept experience logs from applicants submitted from jurisdictions outside of New Mexico, and requiring supervising appraisers to notify their trainees when notified by the board that a complaint has been filed against the supervising appraiser.

16.62.3 NMAC – Application for Licensed Residential

The proposed changes to 16.62.3 NMAC clarify that the licensed residential real estate appraiser classification applies to the appraisal of non-complex one to four residential units having a transaction value less than \$1,000,000 and complex one to four residential units having a transaction value less than \$400,000. The proposed changes also add new language permitting the Board to accept experience logs from applicants submitted from jurisdictions outside of New Mexico.

16.62.4 NMAC – Application for Residential Certificate

The proposed changes to 16.62.4 NMAC add new language permitting the Board to accept experience logs from applicants submitted from jurisdictions outside of New Mexico.

16.62.5 NMAC – Application for General Certificate

The proposed changes to 16.62.5 NMAC add new language permitting the Board to accept experience logs from applicants submitted from jurisdictions outside of New Mexico.

16.62.13 NMAC – Disciplinary Proceedings

The proposed changes to 16.62.13 NMAC generally clarify existing provisions and add new provisions outlining the procedures applicable to application denials, disciplinary proceedings, and administrative proceedings against unlicensed practitioners. In the area of investigations into complaints and applications, the proposed changes provide for the Board’s utilization of an investigator, permit the issuance of investigative subpoenas, and limit those persons eligible to participate in investigations. The proposed changes would also clarify the procedures the Board must follow in referring cases for administrative prosecution, conducting evidentiary hearings, and considering proposed settlement agreements. Finally, the proposed changes to 16.62.13 NMAC add new language governing the Board’s consideration of criminal convictions in applications and disciplinary matters, pursuant to Section 61-1-36 of the Uniform Licensing Act. This new language lists the specific criminal convictions that could disqualify an applicant from receiving a license on the basis of a previous felony conviction and contains related limitations on the Board’s consideration of such convictions.

16.62.18 NMAC – Licensure for Military Members, Spouses and Veterans

The proposed changes to 16.62.18 NMAC generally clarify existing provisions and update the Board's rules to reflect recent amendments to Section 61-1-34 of the Uniform Licensing Act. These changes would provide that the Board would issue the license 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 a background check and any required fees.

16.65.2 NMAC – Registration Requirements

The proposed changes to 16.65.2 NMAC consist exclusively of adding new language requiring Appraisal Management Companies registered in New Mexico to notify the Board within 30 days after the registrant is notified of any denial, revocation, or suspension of its designation, registration, certificate, or license under any law of any jurisdiction, other than New Mexico, regulating appraisal management companies, the imposition of any other form of discipline under any such law, or the commencement of a disciplinary or enforcement action against the registrant under any such law.

16.65.3 NMAC – Application for Registration

The proposed changes to 16.65.3 NMAC consist exclusively of adding new language requiring Appraisal Management Company applicants for registration to provide the Board documentation, as part of their applications for registration, showing any and all discipline imposed on the applicant in any jurisdiction under any law governing or regulating appraisers or appraisal management companies.

16.65.4 NMAC – Discipline

The proposed changes to 16.65.4 NMAC consist exclusively of adding new language providing that the Board may initiate disciplinary action upon receiving information that the applicant, registrant, exempt company, compliance person, or other key person is the subject of an order of the Board or any other state appraisal management company regulatory agency denying, suspending, or revoking the person or entity's privilege to operate as an appraisal management company, or information as to any other disciplinary action by an agency of another jurisdiction responsible for regulating appraisers.

Technical Information:

The proposed list of disqualifying criminal convictions, which is among the changes to 16.62.13 NMAC, is largely based on the Real Property Appraiser Qualification Criteria (effective January 1, 2021), and specifically the AQB Guide Note 9 (on pages 50-52). The public may obtain the full text of this document and information on the Appraisal Foundation's website currently at the following Internet link:

https://www.appraisalfoundation.org/imis/TAF/Standards/Qualification_Criteria/Qualification_Criteria__RP_/TAF/AQB_RP_AQC.aspx.