

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 61 REAL ESTATE BROKERS
PART 35 CHILD SUPPORT ENFORCEMENT

16.61.35.1 ISSUING AGENCY: New Mexico Real Estate Commission.
[8-15-97; 16.61.35.1 NMAC - Rn & A, 16 NMAC 61.35.1, 1-1-2002]

16.61.35.2 SCOPE: The provisions in Part 35 of Chapter 61 apply to disciplinary proceedings by this issuing agency pursuant to the Parental Responsibility Act against a license, certificate, registration or permit required to engage in a profession or occupation. The material in this Part was derived from that previously filed with the State Records Center & Archives under: Title 16, Chapter 1, Part 1, Occupational and Professional Licensing, General Provisions, Parental Responsibility Act Compliance, filed November 3, 1995 by Regulation and Licensing Department.
[8-15-97; 16.61.35.2 NMAC - Rn, 16 NMAC 61.35.2, 1-1-2002]

16.61.35.3 STATUTORY AUTHORITY: Part 35 of Chapter 61 is promulgated pursuant to the Parental Responsibility Act, NMSA 1978, Sections 40-50A-1 to 40-50A-13 (Ch. 25, Laws of 1995).
[8-15-97; 16.61.35.3 NMAC - Rn, 16 NMAC 61.35.3, 1-1-2002]

16.61.35.4 DURATION: Permanent.
[8-15-97; 16.61.35.4 NMAC - Rn, 16 NMAC 61.35.4, 1-1-2002]

16.61.35.5 EFFECTIVE DATE: 8-15-97, unless a later date is cited at the end of a section.
[8-15-97; 16.61.35.5 NMAC - Rn & A, 16 NMAC 61.35.5, 1-1-2002]

16.61.35.6 OBJECTIVE: The objective of Part 35 of Chapter 61 is to implement the requirements of the Parental Responsibility Act as they apply to the issuance, renewal, suspension or revocation of any license required to engage in the profession by this agency under this part.
[8-15-97; 16.61.35.6 NMAC - Rn, 16 NMAC 61.35.6, 1-1-2002; A, 1-1-2006]

16.61.35.7 DEFINITIONS: All terms defined in the Parental Responsibility Act shall have the same meanings in Part 35 of Chapter 61 as used in Part 35.

- A. "HSD" means the New Mexico human services department;
- B. "license" means a license issued by the commission that a person is required to have to engage in the profession or occupation of real estate in New Mexico;
- C. "statement of compliance" means a certified statement from HSD stating that an applicant or broker is in compliance with a judgment and order for support; and
- D. "statement of non-compliance" means a certified statement from HSD stating that an applicant or broker is not in compliance with a judgment and order for support.

[8-15-97, A, 2-14-2000; 16.61.35.7 NMAC - Rn, 16 NMAC 61.35.7, 1-1-2002; A, 1-1-2006]

16.61.35.8 DISCIPLINARY ACTION: If a license applicant or licensed broker is not in compliance with a judgment and order for support, the commission:

- A. shall deny an application for a license;
- B. shall deny the renewal of the license; and
- C. has grounds for suspension or revocation of the license.

[8-15-97; 16.61.35.8 NMAC - Rn & A, 16 NMAC 61.35.8, 1-1-2002; A, 1-1-2006]

16.61.35.9 CERTIFIED LIST: Upon receipt of HSD's certified list of obligors not in compliance with a judgment and order for support, the commission shall match the certified list against the current list of commission brokers or broker applicants. Upon the later receipt of an application for license or renewal, the commission shall match the applicant against the current certified list. By the end of the month in which the certified list is received, the commission shall report to HSD the names of commission brokers or broker applicants who are on the certified list and the action the commission has taken in connection with such brokers or broker applicants.
[8-15-97, A, 2-14-2000; 16.61.35.9 NMAC - Rn & A, 16 NMAC 61.35.9, 1-1-2002; A, 1-1-2006]

16.61.35.10 INITIAL ACTION: Upon determination that a broker or broker applicant appears on the certified list, the commission shall:

A. commence a formal proceeding as set forth in Section 11 of Part 35 to take the appropriate action under Section 8 of Part 35; or

B. for current brokers only, informally notify the broker that the broker's name is on the certified list, and that the broker must provide the commission with a subsequent statement of compliance from HSD by the earlier of the application for license renewal or a specified date not to exceed thirty (30) days. If the broker fails to provide this statement, the commission shall commence a formal proceeding as set forth in Section 11 of Part 35. [8-15-97, A, 2-14-2000; 16.61.35.10 NMAC - Rn, 16 NMAC 61.35.10, 1-1-2002; A, 1-1-2006]

16.61.35.11 NOTICE OF CONTEMPLATED ACTION: Prior to taking any action specified in Section 8 of Part 35, the commission shall serve upon the broker or broker applicant a written notice stating that:

A. the commission has grounds to take such action, and that the commission shall take such action unless the broker or broker applicant:

(1) mails a letter (certified, return receipt requested) within twenty (20) days after service of the notice requesting a hearing; or

(2) provides the commission, within thirty (30) days of the date of the notice, with a statement of compliance from HSD; and

B. if the broker or broker applicant disagrees with the determination of non-compliance, or wishes to come into compliance, the broker or broker applicant should contact the HSD child support enforcement division. [8-15-97, A, 1-1-2000; 16.61.35.11 NMAC - Rn & A, 16 NMAC 61.35.11, 1-1-2002; A, 1-1-2006]

16.61.35.12 EVIDENCE AND PROOF: In any hearing under Part 35 of Chapter 61, relevant evidence is limited to the following:

A. a statement of non-compliance is conclusive evidence that requires the commission to take the appropriate action under Section 8 of Part 35 of Chapter 61 unless;

B. the broker or broker applicant provides the commission a subsequent statement of compliance which shall preclude the commission from taking any action based solely on the prior statement of non-compliance. [8-15-97; 16.61.35.12 NMAC - Rn & A, 16 NMAC 61.35.11, 1-1-2002; A, 1-1-2006]

16.61.35.13 ORDER: When an action is taken under Part 35 of Chapter 61 solely because the broker or broker applicant is not in compliance with a judgment and order for support, the order shall state that the application or license shall be reinstated upon presentation of a subsequent statement of compliance. The commission may also include any other conditions necessary to comply with commission requirements for reapplication or reinstatement of lapsed licenses.

[8-15-97, A, 1-1-2000; 16.61.35.13 NMAC - Rn & A, 16 NMAC 61.35.13, 1-1-2002; A, 1-1-2006]

16.61.35.14 PROCEDURES: Proceedings under Part 35 of Chapter 61 shall be governed by the Uniform Licensing Act, Section 61-1-1, et seq., or any other adjudicatory procedures adopted by the commission.

[8-15-97; 16.61.35.14 NMAC - Rn, 16 NMAC 61.35.14, 1-1-2002]

HISTORY of 16.61.35 NMAC:

Pre-NMAC History: None.

History of Repealed Material: [RESERVED]

Other History:

16 NMAC 61.35, Child Support Enforcement, filed 12-10-99 reformatted, amended and renumbered to 16.61.35 NMAC, Child Support Enforcement, effective 1-1-2002.