

PUBLIC RULE HEARING AND REGULAR BOARD MEETING

The New Mexico Real Estate Appraisers Board will hold a rule hearing on Monday, December 17, 2018, at 9:00 a.m. Following the rule hearing, the Board will convene a board meeting to adopt the rules and take care of regular business. The rule hearing and board meeting will be held at the New Mexico Regulation and Licensing Department, 2550 Cerrillos Road, Santa Fe, NM, in Hearing Room 2.

The Board is proposing the following amendments listed below to the Real Estate Appraisers and Appraisal Management Companies' rules to correct language, definitions and requirements in accordance with the Appraiser Qualification Board (AQB). The proposed amendments include changed provisions applicable to Trainees, License, Residential Certificate and General Certificate. The amendments modify the definition of "Appraisal Management Company" to more closely track the definition in the Appraisal Management Company Registration Act. Importantly, the proposal adds a new reporting rule to the Appraisal Management Companies' rules, as required by the Appraisal Subcommittee (ASC). To sum up, the amendments are intended to provide for the licensing of appraisers, allow online education, eliminate renewal exam requirements, clarify definitions and provide uniformity in the application of the following rules:

- 16.62.1 NMAC – General Provisions;
- 16.62.2 NMAC – Application for Trainee;
- 16.62.3 NMAC – Application for License;
- 16.62.4 NMAC – Application for Residential Certificate;
- 16.62.5 NMAC – Application for General Certificate;
- 16.62.6 NMAC – Examinations;
- 16.62.7 NMAC – Issuance/Renewal of Trainee Registration/Licenses/Certificates;
- 16.62.8 NMAC – Educational Programs/Continuing Education;
- 16.62.9 NMAC – Certificate of Good Standing;
- 16.62.10 NMAC – Temporary Practice;
- 16.62.11 NMAC – Application for Reciprocity;
- 16.62.12 NMAC – Fees;
- 16.62.13 NMAC – Disciplinary Proceedings;
- 16.62.15 NMAC – Retirement and Reinstatement;
- 16.62.16 NMAC – Advertising;
- 16.62.17 NMAC – Unlicensed Practice/Penalties;
- 16.65.1 NMAC – General Provisions
- 16.65.2 NMAC – Registration Requirements

To obtain and review copies of the proposed changes and public comments, you may go to the Board's website at: http://www.rld.state.nm.us/boards/Real_Estate_Appraisers.aspx, or contact the Boards and Commissions Division at (505) 476-4622.

The Board is currently accepting public comments on the proposed amendments. Please submit written comments on the proposed changes to Ruth Romero, 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, December 14, 2018. Persons will also be given the opportunity to present their comments at the rule hearing.

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 Ruth Romero, Board Administrator at (505) 476-4622.

No technical information served as a basis for the proposed rule.

Statutory Authority: Legal authority for this rulemaking can be found in the Real Estate Appraisers Act, NMSA 1978, Sections 61-30-1 through -24 (1990, as amended through 2017), which, among other provisions, specifically authorizes the Board to “adopt rules necessary to implement the provisions of the Real Estate Appraisers Act.” Subsection A of Section 61-30-7, NMSA 1978.

Summary of Proposed Changes:

16.62.1.2 NMAC, 16.62.2.2 NMAC, 16.62.3.2 NMAC, 16.62.4.2 NMAC, 16.62.5.2 NMAC, 16.62.6.2 NMAC, 16.62.7.2 NMAC, 16.62.8.2 NMAC, 16.62.9.2 NMAC, 16.62.10.2 NMAC, 16.62.11.2 NMAC, 16.62.12.2 NMAC, 16.62.13.2 NMAC, 16.62.15.2 NMAC, 16.62.16.2 NMAC and 16.62.17.2 NMAC – SCOPE

The changes for the above parts add the word “residential after “licensed”, which is consistent with the title used in The Real Property Appraiser Qualification Criteria effective 01/01/2015. The word “certified” is also added in the last sentence for clarification.

16.62.1 NMAC – General Provisions

The addition to paragraph (1) of Subsection A clarifies that appraisal experience from other states will be valid in New Mexico for obtaining or upgrading license or certified status, as long as both the trainee and supervisor were in compliance with state and federal law at the time the experience was gained.

16.62.2 NMAC – Application for Trainee

Removal of the word “classroom” and adding applicable language to be consistent with The Real Property Appraiser Qualification Criteria effective 01/01/2015; removal of limitation that required only live classes, education may now be taken via distance education; language replaces “attendance” with “complete” which now allows education to be taken either in person or via distance education for courses, and also clarifies that courses must be “completed” vs “taken.”

16.62.3 NMAC – Application for License

The change corrects the classification of “License” to “Licensed Residential,” which is consistent with the title used in The Real Property Appraiser Qualification Criteria effective 01/01/2015; this change includes the removal of the word “classroom” and adding applicable language to be consistent with The Real Property Appraiser Qualification Criteria effective 01/01/15, as well as removal of the limitation of only no more than 50% of courses may be obtained from internet or distance learning modalities (no longer a limitation, all hours may be via distance education); Effective May 1, 2108, The Appraisal Qualifications Board adopted changes to College-Level Education required for Licensed Residential status to “no education is required,” therefore this section is removed from current rules; The changes add the word “residential” after “licensed” which is consistent with the title used in The Real Property Appraiser Qualification Criteria effective 01/01/2015. “Experience” required hours were reduced from 2,000 to 1,000 and the time-frame limit from no fewer than 12 months to no fewer than 6 months.

16.62.4 NMAC – Application for Residential Certificate

This change includes the removal of the word “classroom” and adding applicable language to be consistent with The Real Property Appraiser Qualification Criteria effective 01/01/15, as well as removal of the limitation of only no more than 50% of courses may be obtained from internet or distance learning modalities (no longer a limitation, all hours may be via distance education); Effective May 1, 2018, The Appraisal Qualifications Board adopted changes to College-Level Education required for Residential Certified appraisers; the education requirements are being replaced with the new criteria. Also changes are made to the experience credit required and the time-frame limit from no fewer than 24 months to no fewer than 12 months.

16.62.5 NMAC – Application for General Certificate

The existing rules inadvertently omitted one class required by The Appraisal Qualifications Board for General Certification; this change adds the class into the rules (Statistics, Modeling, and Finance 15 hours). Also changes are made to the time-frame for experience from no fewer than 30 months to no fewer than 18 months.

16.62.6 NMAC – Examinations

Required score for passing is 70%, not 72%. No change to requirement for Jurisprudence exam at the time of initial examination.

16.62.7 NMAC – Issuance/Renewal of Trainee Registration/Licenses/Certificates

The removal of the “or less than 13 months” is not necessary and is confusing; Proration fees are not allowed or tracked; “Documentation” changed to “completion” as the Board allows for attestation of completion of the required continuing education courses. Clarification is provided on methods in which an application may be submitted to the Board office. Clarification is provided on the documentation of education certificates issued by education providers that licenses must maintain. Clarification that applicants for renewal will be required to review and become familiar with rules and attest to this as part of the renewal process; Removal of “classroom” clarifies that hours of continuing education are not limited to live classes. Clarification is added that the AQB 7-hour National USPAP Update course is required as part of the 28 hours of continuing education. The jurisprudence exam for renewal is being discontinued and applicants will now be required to attest that they have reviewed the rules as part of the new and renewal application process. The jurisprudence exam will remain for new applications. The \$95.00 will no longer be applicable or assessed to renewal applications; Section A is added for clarification as an exemption from issuance of a license or certification of analyzing an appraisal as part of a request for mortgage credit. Section B is added clarifying that a non-residential licensed or certified appraiser, while out of state and reviewing appraisals on property in New Mexico, is exempt from obtaining a license or certification from New Mexico.

16.62.8 NMAC – Educational Programs/Continuing Education

The word classroom is deleted as classroom hours are no longer mandatory; Removal of the requirement that limits the maximum of 14 online continuing education hours; The Real Estate Appraiser Board office does not have storage capacity for student records when a school closes, therefore this requirement is being removed. Removal of section 4 requires renumbering the remaining numbers.

16.62.9 NMAC – Certificate of Good Standing

“A” is edited for clarity.

16.62.10 NMAC – Temporary Practice

Addition of certified appraisers is for clarity.

16.62.11 NMAC – Application for Reciprocity

Changes made for clarification. Also clarification on when reciprocal licenses shall expire. B(1) is removed, as New Mexico is electing to not to adopt all of the AQB Criteria (and maintain more stringent requirements), applicants for reciprocity may have met their home state requirements, and obtained their license or certification, while complying with the AQB requirements in that state. Reciprocity will be recognized based on their credentials at the time of application for reciprocity.

16.62.12 NMAC – Fees

The removal of proration of fees is removed as they are not allowed or tracked. Other additions made as corrections.

16.62.13 NMAC – Disciplinary Proceedings

Changes made for process in order to meet the 1-year time limit required by the Appraisal Subcommittee (ASC) for cases to be closed.

16.62.15 NMAC Retirement and Reinstatement

Remove of “/” and replace with “or”. Remove “clock – “from sentence as “clock” is not applicable; Duplication; Subsections C, D & E are the same as Subsections H, I & J, so Subsections H, I & J are removed, and Subsection K is changed to Subsection H.

Statutory Authority: Legal authority for this rulemaking can be found in the Appraisal Management Company Registration Act, Sections 47-14-1 through -23, NMSA 1978 (2009, as amended through 2013), which specifically 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.” Section 47-14-23, NMSA 1978.

Summary of Proposed Changes:

16.65.1 NMAC – General Provisions

Modifies the definition of “Appraisal Management Company” to mirror the one found in the Appraisal Management Company Registration Act.

16.65.2 NMAC – Registration Requirements

Confusion exists in current rules. The intent on new registration applications appears to require a 15-hour class for initial registration, which is appropriate, however the 15-hour class can be an older class if submitted with a recent 7 hour USPAP Update course. For renewal applications, all that is required is a 7 hour USPAP update; A change made for what constitutes a detailed record and requirement added for AMC’s being audited; A new reporting rule added for “AMC National Registry” required by the Appraisal Subcommittee (ASC).