ISSUING AGENCY: New Mexico Real Estate Commission.

SCOPE: The provisions in Part 3 of Chapter 61 apply to all applicants for real estate broker licensure in New Mexico.

STATUTORY AUTHORITY: Part 3 of Chapter 61 is promulgated pursuant to the Real Estate Licensing Law, Section 61-29-4 NMSA 1978.

DURATION: Permanent.

EFFECTIVE DATE: January 15, 2018, unless a later date is cited at the end of a section.

OBJECTIVE: The objective of Part 3 of Chapter 61 is to set forth the examination and application requirements for candidates desiring to obtain a New Mexico real estate broker's license.

DEFINITIONS: Refer to 16.61.1.7 NMAC.

TYPES OF LICENSES: The New Mexico real estate commission issues two types of real estate broker's licenses; an associate broker's license and a qualifying broker's license. Both types of licenses are issued only to individuals. The requirements for obtaining both types of licenses are described below.

EXAMINATION AND LICENSING REQUIREMENTS:

A. Associate broker’s license: prior to applying for an associate broker’s license, an applicant must pass both the national broker examination prescribed by the commission, and the New Mexico real estate broker’s examination prescribed by the commission.

B. Examination application.

(1) Applications to take the prescribed broker’s examination(s), are made directly to the commission’s examination contractor on a form prescribed by the commission and provided by the contractor in a candidate information bulletin. Along with the application form, an applicant must submit certificates of completion of commission-approved 30-hour pre-licensing courses in real estate principles and practice, real estate law, and broker basics. These pre-licensing courses must have been completed within the three years prior to application to take the broker’s examinations. Exam candidates who are licensed as associate brokers and are taking the broker’s examination to upgrade to qualifying broker are exempt from the three-year time limit and must only provide documentation of course completion.

(2) Exam candidates currently originally licensed as real estate salespersons or brokers or licensees in other states or jurisdictions including any branches of the armed forces of the United States, may apply for waivers from completing the real estate principles and practice and real estate law courses in New Mexico and from taking the national portion of the broker’s examination if they can provide a certified license history from their resident licensing jurisdiction documenting that they have completed these courses or their equivalent. A New Mexico associate broker upgrading to qualifying broker will also be exempt from taking the national portion of the broker’s exam.
(3) Except in a case of a license applicant from a state or jurisdiction with which the New Mexico real estate commission has a written license recognition agreement, an exam applicant cannot be exempted from completing the commission-approved 30-hour broker basics course.

(4) License applicants currently licensed by state or jurisdiction with which the commission has a written license recognition agreement are not required to take any of the prescribed pre-licensing courses or take either portion of the broker’s examination to be eligible to apply for a New Mexico broker’s license.

(5) Exam applicants exempted from taking the real estate principles and practice and real estate law courses by virtue of having a current real estate broker’s license in another state shall attach to their examination application a letter of pre-licensing education waiver from the commission and a certificate of completion of the 30-hour broker basics course.

(6) All other applicants for the examination shall attach to their license examination application certificates documenting completion of one 30-hour pre-licensing course each in real estate principles and practice, real estate law, and broker basics.

(7) At the time of making application to take the examination, applicants shall pay to the commission’s examination contractor a non-refundable fee not to exceed $95.

(8) Applicants are required to pass both the state and national portions of the examination with a minimum score of 75 no later than 90 calendar days after the first time they took the examination. Applicants failing to pass both portions of the examination within this time frame will be required to re-take and pass both portions of the examination before being eligible to apply for a broker’s license.

C. Associate Broker License application.

(1) Upon passing both portions of the New Mexico real estate broker’s examination, an individual has six months to apply for an associate broker’s license on the application prescribed by the commission.

(2) An individual who fails to apply for an associate broker’s license within six months of having passed both portions of the broker’s examination shall be required to re-take both portions of the examinations six month deadline.

(3) An applicant for an associate broker’s license shall be a legal resident of the United States and have reached the age of majority in New Mexico or in the state in which the applicant resides.

(4) Along with the license application form prescribed by the commission, the applicant must submit a written score report provided by the examination contractor documenting that the applicant has passed both portions of the examination with a minimum score of 75, documentation of having been fingerprinted for purposes of matching with state and national arrest record databases, a certificate of insurance documenting that the applicant has a current errors and omissions insurance policy that meets the requirements for such insurance as described in 16.61.5 NMAC of the commission rules, and a non-refundable license application fee not to exceed $270. Veteran applicants and military service members, their spouses and dependent children, are exempt from the license application fee for the first period of licensure.

D. Qualifying broker’s license examination: there is no separate qualifying broker’s examination.

E. Military service members and Veterans.

(1) The commission shall, within 60 days as soon as practicable after a military service member, the spouse of a military service member, a dependent child of a military service member, or a recent veteran files an application for an associate broker’s or qualifying broker’s license, process the application and issue a license to a qualified applicant who submits satisfactory documentation that the applicant holds a real estate license issued by another licensing jurisdiction, including a branch of the armed forces of the United States, that is current and in good standing, and that has licensing requirements that are substantially equivalent to New Mexico requirements.

(2) A license issued pursuant to this part is not a provisional license and confers the same rights, privileges, and responsibilities as any other license issued by the commission.

(3) A license issued pursuant to this part shall not be renewed unless the licensee satisfies the commission’s requirements for license renewal.

(4) Veteran applicants and military service members, their spouses and dependent children, are exempt from the license application fee for the first period of licensure.

[16.61.3.9 NMAC - Rp. 16.61.3.9, 1/15/2018]

16.61.3.10 QUALIFYING BROKER LICENSING REQUIREMENTS: To be eligible to apply for a New Mexico qualifying broker’s license, an applicant must furnish the commission satisfactory evidence of completing the following:

A. Passage of the broker’s examination pursuant to Section 9(D) of 16.61.3 NMAC.
B. At least four years active experience as a licensed associate broker during the 60-month period, immediately preceding the filing of the application.

C. In the case of a qualifying broker who will not be supervising or managing other brokers, at least two years of active experience as a licensed associate broker during the 60-month period immediately preceding the filing of the application.

D. Qualifying brokers who have qualified for qualifying broker status under the exception provided in subsection C, must document at least four years of active experience as an associate broker and qualifying broker before being eligible to supervise other brokers.

E. If licensed in another state, not less than four years’ experience as the equivalent of an associate broker during the 60-month period immediately preceding the filing of the application with verification in writing by the applicant’s qualifying broker(s) or the state’s applicable equivalent to a qualifying broker. A candidate for a qualifying broker license from another state will, in all circumstances, be required to fulfill all the remaining requirements, including experience, education and acknowledgement of responsibilities.

F. Documented qualifying transactional experience totaling 100 points, with at least one transaction accomplished during each of the four years prior to filing of the application. These transactions are to be verified in writing by the applicant’s qualifying broker. Transactions involving property owned by the applicant do not count toward the required total. Points are awarded as follows and can be accumulated through any combination of the following activities:

1. Each sale or lease transaction is deemed to have two sides; one side working with the buyer/tenant and the other side working with the seller/owner. Both transaction sides receive points.
2. In the event of transactions handled by teams comprised of more than one associate broker the qualifying broker shall monitor the transactions to determine which associate broker is deserving of earning the points allowed, or the division of the allowable points among team members.
3. Real estate and property management transactions; total points available per transaction side:
   - Residential sales transactions: five points
   - Residential lot sale transactions: three points
   - Residential lease transactions: four points
   - Commercial improved property sale transactions: eight points
   - Commercial unimproved lot sale transactions: six points
   - Commercial lease transactions: six points
   - Property management points are accumulated as follows: Points are awarded for each location for which the broker has direct responsibility. Direct responsibility means acting as an agent for the owner and is not just collecting rent. Property management points are accumulated as follows:
     - Residential property management: Each property receives three points, plus one point for each additional unit in that property to a maximum of 25 points per property per year. A unit is defined as a separate residence with its own postal address.
     - Commercial property management: Each property receives four points, plus one point for each individual tenant space in that property to a maximum of 25 points per property per year. A space is defined as a commercial location that has its own postal address.
     - Farm and ranch/vacant land - For the purposes of this paragraph a farm or a ranch is defined as a property which is used for commercial agricultural purposes. Farm and ranch points are awarded as follows:
       - Less than 100 acres, eight points.
       - 100 acres or more, 10 points.
     - Limited waiver: A waiver may be granted by the commission to an associate broker who can demonstrate that their particular circumstance, i.e. size of market, lack of property types, health issues, force majeure, make it very difficult to obtain 100 points. The commission may waive up to 30 points and the transaction per year requirement. Written documentation and statements of proof shall be submitted with the application for waiver.

[16.61.3.9 NMAC – Rp. 16.61.3.10, 1/15/2018]

16.61.3.11 QUALIFYING BROKER CANDIDATE EDUCATION REQUIREMENTS FOR
APPLICATION: An associate broker or salesperson licensed in another state who is applying for a qualifying broker license shall furnish the commission satisfactory evidence of:
A. Completion of the commission approved 30-hour brokerage office administration course, with an in-course instructor-created exam administered by the instructor at the end of the course.

B. Completion of the eight-hour understanding and using RANM forms course or at least eight hours of other commission-approved contract course(s).

C. Completion of a minimum of eight hours of core elective courses.

D. Attendance at one New Mexico real estate commission meeting, rule hearing, or disciplinary hearing for at least three hours, or until the commission meeting goes into executive session, or the hearing/meeting ends, whichever comes first. Attendance may be by live meeting/hearing or by live or recorded distance broadcast; but must be documented by signing into and out of the meeting/hearing. In the event of broker hardship, approved by the commission, the real estate commission may authorize an equivalent to attendance at a commission meeting by an online download, attendance at any approved equivalent, or by other approved participation.

[16.61.3.9 NMAC – Rp. 16.61.3.11, 1/15/2018; A, 1/1/2019]

16.61.3.12 QUALIFYING BROKER APPLICATION REQUIREMENTS: An associate broker or salesperson licensed in another state who is applying for a qualifying broker license shall furnish the commission satisfactory evidence of the following:

A. A notarized affidavit of the applicant’s acknowledgement of the responsibilities of a qualifying broker, including the direct supervision of all brokers affiliated with the qualifying broker. Supervision shall be defined in the affidavit as follows:

(1) Review and maintain all records and documents required for real estate related matters processed by personnel supervised by the qualifying broker.

(2) Provide or promote appropriate training of all brokers and staff affiliated with the qualifying broker for compliance with the real estate license law and commission rules.

(3) Supervise advertising of real estate or real estate services conducted on behalf of others by anyone affiliated with the qualifying broker.

(4) Execute and maintain current written employment agreements or independent contractor agreements with associate brokers affiliated with the qualifying broker.

B. A broker applying to be licensed as a qualifying broker supervised by another qualifying broker is not required to submit this affidavit.

C. A supervisory plan which will outline the qualifying broker’s schedule of training and education provided or promoted. The supervisory plan will be applicable to the broker applying to be a qualifying broker and to all other brokers affiliated with them, if any. A broker applying to be licensed as a qualifying broker supervised by another qualifying broker is not required to submit a supervisory plan.

D. Applicants with current licenses who can document that they were New Mexico qualifying brokers on or before December 31, 2005, are not subject to those requirements and may regain qualifying broker status by filing a trade name registration form and paying the trade name registration fee to the commission.

E. Brokers who were salespersons on January 1, 2006 when the license law was amended to eliminate the salesperson category and were converted to associate broker status, shall in addition to meeting the requirements in the preceding section, document that they have met the requirements for and passed the broker’s examination prior to being issued a qualifying broker’s license.

F. An application for a New Mexico qualifying broker’s license shall be made on the form prescribed by the commission and shall be accompanied with documentation of having been fingerprinted for purposes of matching with state and national arrest record databases, a certificate documenting that the applicant has a current errors and omissions insurance policy that meets the requirements for such insurance as described in 16.61.5 NMAC of the commission rules, and a non-refundable license application fee not to exceed $270.

G. Military service members: Military service members and Veterans:

(1) The commission shall, as soon as practicable after a military service member, the spouse of a military service member or a recent veteran files an application for an associate broker’s or qualifying broker’s license, process the application and issue a license to a qualified applicant who submits satisfactory documentation that the applicant holds a real estate license issued by another licensing jurisdiction, including a branch of the armed forces of the United States, that is current and in good standing, and that has licensing requirements that are substantially equivalent to New Mexico requirements.

(2) A license issued pursuant to this part is not a provisional license and confers the same rights, privileges, and responsibilities as any other license issued by the commission.

(3) A license issued pursuant to this part shall not be renewed unless the licensee satisfies the commission’s requirements for license renewal.

16.61.3 NMAC
(1) The commission shall, within 60 days after a military service member, the spouse of a military service member, a dependent child of a military service member, or a recent veteran files a completed application for an associate broker’s or qualifying broker’s license, process the application and issue a license to a qualified applicant.

(2) A license issued pursuant to this part is not a provisional license and confers the same rights, privileges, and responsibilities as any other license issued by the commission.

(3) A license issued pursuant to this part shall not be renewed unless the licensee satisfies the commission’s requirements for license renewal.

(4) Veteran applicants and military service members, their spouses and dependent children, are exempt from the license application fee for the first period of licensure.

[16.61.3.9 NMAC – Rp. 16.61.3.12, 1/15/2018; A, 1/1/2019]

16.61.3.13 QUALIFYING BROKER LICENSE RENEWAL REQUIREMENTS: A qualifying broker applying for renewal of their license shall furnish the commission satisfactory evidence of successful completion of:

A. The qualifying broker refresher course.

B. A. A minimum of 36 42 hours of commission-approved courses, including

(1) The four-hour core course in each year of the broker’s licensing cycle

(2) Eight hours of core elective courses.

(3) The qualifying broker refresher course (six hours)

C. B. Attendance at one commission meeting, rule hearing, or disciplinary hearing for at least three hours, or until the commission goes into executive session, or the hearing/meeting ends, whichever comes first. Attendance may be by live meeting/hearing or by live or recorded distance broadcast, but must be documented by signing into and out of the meeting/hearing. In the event of broker hardship, approved by the commission, the real estate commission may authorize an equivalent to the attendance of a commission meeting either by an online download, attendance at any approved equivalent, or by other approved participation.

D. C. An application for renewal of a qualifying broker’s license shall include a notarized affidavit of the applicant’s acknowledgement of the responsibilities of a qualifying broker, including the direct supervision of all brokers affiliated with the brokerage, including but not limited to:

(1) Review and maintain all records and documents required for real estate related matters processed by the brokerage.

(2) Provide or promote appropriate training of all brokers and staff affiliated with the qualifying broker to ensure compliance with the Real Estate License Law and commission rules.

(3) Supervise advertising of real estate or real estate services conducted on behalf of others by anyone affiliated with the qualifying broker.

(4) Execute and maintain current written employment agreements or independent contractor agreements with associate brokers affiliated with the qualifying broker.

E. D. A qualifying broker applying for license renewal who will be supervised by another qualifying broker will not be required to submit this affidavit.

F. E. An application for renewal of a qualifying broker’s license shall include a statement affirming that the qualifying broker substantially fulfilled the supervisory plan filed with the initial application, and a plan outlining the schedule of training and education to be provided or promoted and the policies for supervision in the next licensing cycle. The supervisory plan will be applicable to the applicant for renewal of the qualifying broker’s license and all affiliated brokers, if any. A qualifying broker who is supervised by another qualifying broker is not required to submit a supervisory plan.

[16.61.3.9 NMAC – Rp. 16.61.3.13, 1/15/2018; A, 1/1/2019]

16.61.3.14 PROPERTY MANAGEMENT EDUCATIONAL REQUIREMENTS: Qualifying brokers or associate brokers intending to offer property management services for others, shall as a condition of offering property management services complete the following education requirements:

A. Completion of the commission approved course, Uniform Owner-Resident Relations Act, or a commission approved equivalent property management related course, prior to offering property management services and during every subsequent three-year licensing cycle.

B. As a condition of offering property management services, in addition to the course requirement in paragraph A above, associate brokers shall complete a minimum of six hours of approved continuing education courses in property management selected from the commission’s most current approved course catalogue during each three-year licensing cycle.
C. Qualifying brokers who offer or intend to offer property management services for others, shall as a condition of offering such services, in addition to the course requirement in Section A above, complete a minimum of 12 hours of approved continuing education courses in property management selected from the commission’s most current approved course catalogue, during each three-year licensing cycle.

D. While qualifying brokers are already subject to the meeting attendance renewal requirements listed in Section 13 C of 16.61.3 NMAC, associate brokers who offer or intend to offer property management services shall also be subject to the same meeting attendance requirements in Section 13 C of 16.61.3 NMAC, namely, the attendance at one commission meeting, rule hearing, or disciplinary hearing for at least three hours, or until the commission goes into executive session, or the hearing/meeting ends, whichever comes first. Attendance may be live meeting/hearing or by live or recorded distance broadcast, but must be documented by signing into and out of the meeting/hearing. In the event of broker hardship, approved by the commission, the real estate commission may authorize an equivalent to the attendance of a commission meeting either by an online download, attendance at any approved equivalent, or by other approved participation.

[N, 1/1/2019]

HISTORY OF 16.61.3 NMAC:

Pre-NMAC History:
The material in this part was derived from that previously filed with the state records center and archives under: Real Estate License Law Manual, filed 10/2/1973;
REC-9, filed as Rule No. 9 Amendment No. 2 Broker Examinations; Time for Filing; Place of, filed 6/15/1979;
REC 80-2, filed as Rule No. 9 Amendment No. 3, Broker Examinations; Time for Filing, Place of, filed 7/17/1980;
REC 70-7, Broker Examinations - Time for Filing - Place of, filed 10/6/1981;
REC 71-7, Broker Examinations - Time for Filing - Place of, filed 11/29/1982;
Rule No. 2, Examinations-Requirements/Application for, filed 12/18/1987;

History of Repealed Material:
16.61.3 NMAC, Real Estate Broker's License: Examination and Licensing Application Requirements (filed 11/17/2008) repealed 1/1/2012.

Other History:
That applicable portion of NMREC Rule No. 2 Examination-Requirements/Application for (filed 10/3/1994) was renumbered, reformatted, and replaced by 16 NMAC 61.3, Broker's License: Examination and Application Requirements, effective 8/15/1997.
16 NMAC 61.3, Broker's License: Examination and Application Requirements (filed 6/25/1997) was replaced by 16.61.3 NMAC, Broker's License: Examination and Licensing Application Requirements, effective 1/1/2000.
16.61.3 NMAC, Broker's License: Examination and Licensing Application Requirements (filed 12/10/1999) was replaced by 16.61.3 NMAC, Broker's License: Examination and Licensing Application Requirements, effective 1/1/2002.
16.61.3 NMAC, Broker's License: Examination and Licensing Application Requirements (filed 11/30/2001) was replaced by 16.61.3 NMAC, Real Estate Broker’s License: Examination and Licensing Application Requirements, effective 1/1/2006.
16.61.3 NMAC, Real Estate Broker’s License: Examination and Licensing Application Requirements (filed 11/16/2005) replaced by 16.61.3 NMAC, Real Estate Broker’s License: Examination and Licensing Application Requirements, effective 12/31/2008.
16.61.3 NMAC, Real Estate Broker’s License: Examination and Licensing Application Requirements (filed 11/17/2008) replaced by 16.61.3 NMAC, Real Estate Broker’s License: Examination and Licensing Application Requirements, effective 1/1/2012.