

NEW MEXICO REAL ESTATE COMMISSION

NOTICE OF RULE HEARING

The New Mexico Real Estate Commission will hold a public rule hearing on Monday, May 16, 2016 at 9:00 a.m. at the Commission office at 5500 San Antonio Drive NE, in Albuquerque, New Mexico.

The Commission is seeking real estate broker and public input on proposed changes to the rules listed below. The Commission will take final action on proposed rules considered at the May 16 rule hearing, as well as proposed rules considered at the February 19, 2016 rule hearing, at a regular meeting immediately following the rule hearing on Monday, May 16, 2016.

Copies of the proposed rule changes summarized below, as well as the proposed rules considered at the February 19, 2016 rule hearing, will be available from the Commission office at 5500 San Antonio Drive NE, Suite B, Albuquerque, New Mexico or from the Commission web site at www.rld.state.nm.us by no later than April 15, 2016. Copies of the agenda for the rule hearing may be obtained from the Commission office no later than seventy two (72) hours before the hearing.

Real estate brokers and members of the public may comment on the proposed rule changes during the hearing and may submit written comments to the Commission up to the day of the hearing. Written comments submitted prior to the hearing should be mailed to Wayne W. Ciddio, Executive Secretary, New Mexico Real Estate Commission, 5500 San Antonio Drive NE, Suite B, Albuquerque, New Mexico 87109 or emailed to Mr. Ciddio at wayne.ciddio@state.nm.us.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the rule hearing, please contact Wayne W. Ciddio, Executive Secretary, New Mexico Real Estate Commission at (505) 222-9829 or by email at wayne.ciddio@state.nm.us at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and proposed rule changes, can be provided in various accessible formats. Please contact Mr. Ciddio if a summary or other type of accessible format is needed.

Following is a summary of the proposed rule changes that the Commission will consider at the May 16, 2016 rule hearing.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING

CHAPTER 61 REAL ESTATE BROKERS

PART 1 GENERAL PROVISIONS

16.61.1.7 DEFINITIONS:

The Commission is proposing to amend the definitions of:

“Agent” to make the definition consistent with the definition in the Uniform Owner Resident Relations Act which says that a property manager is the exclusive agent of the property owner.

“Broker duties” from “the duties that brokers owe to their clients and customers in the course of a real estate transaction” to “certain duties owed by brokers to customers, clients, tenants, and other brokers”.

“Commercial real estate” to mirror the definition of commercial real estate in the foreign broker law as it applies to foreign brokers, i.e., brokers licensed in jurisdictions other than New Mexico, conducting real estate transactions in New Mexico without a New Mexico broker’s license.

“Core course” to define the four –hour course that will be required annually of all brokers and replace the current eight-hour Mandatory Course that is required every three years.

“Core elective course” to define the four- hour specialized course in residential sales, commercial sales, property management, or vacant land/ranch sales that will be required of all brokers once every three years in addition to the annual core course.

“Exclusive agency” to add to the definition of “exclusive agency” sub agency and the brokerage relationship between a property manager and a property owner.

“Foreign broker” to reinstate a definition of foreign broker that was removed from the Commission rules when the foreign broker provisions of the Real Estate License Law were briefly repealed.

“Honesty and reasonable care and ethical and professional conduct” to add ethical and professional conduct to the existing broker duty of “honesty and reasonable care” and to define the expanded broker duty as “conduct that a reasonable person would understand to meet standards of professionalism and ethical conduct within a profession, including but not limited to good faith, competence, trustworthiness, diligence, and lawful behavior”.

“Property manager” to clarify for purposes of consistency with the Uniform Owner Resident Relations Act that a property manager is the exclusive agent of a property owner in a property management transaction.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING

CHAPTER 61 REAL ESTATE BROKERS

PART 13 CONTINUING EDUCATION REQUIREMENTS

The Commission is proposing to amend Part 13 to:

Increase from 30 to 36 the number of continuing education hours brokers will be required to complete every three years as a condition of license renewal.

Replace the eight–hour Mandatory Course required every three years with a four–hour Core Course required annually; require a four–hour elective course in a specialty area (residential sales, commercial sales, property management, vacant land/ranch sales) every three years; and require a four–hour commission-approved ethics course every three years.

Rename the “commission approved thirty-hour post-licensing course” the “New Broker Business Practices course”.

Clarify that brokers may receive up to a maximum of four hours of continuing education credit during each three-year licensing cycle for attending Commission meetings, rule hearings, and disciplinary hearings. Add attendance at meetings of the Education Advisory Committee to the list of Commission-related meetings for which a broker can receive continuing education credit.

Establish a mechanism for implementing the transition from the Mandatory Course to the Core Course so that brokers who have already completed the Mandatory Course in their current three-year renewal cycle would not have to take the Core Course until their next renewal cycle. Establish July 1, 2016 as the effective date of the new Core Course, Core Elective Course, and Ethics Course requirements.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING

CHAPTER 61 REAL ESTATE BROKERS

PART 17 ASSOCIATE BROKER: AFFILIATION AND RESPONSIBILITIES

The Commission is proposing to amend Part 17 to:

Allow associate brokers who have been on inactive status since their initial licensure one year from the time they activate their licenses to complete the New Broker Business Practices Course. Current rules require associate brokers to complete the course within one year from initial licensure whether they have been on active or inactive status.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING

CHAPTER 61 REAL ESTATE BROKERS

PART 23 TRUST ACCOUNTS

The Commission is proposing to amend Part 23 to:

Require that qualifying brokers have access to all trust accounts and all financial records related to the brokerage's trust accounts.

Require that trust account reconciliation be performed monthly and be verified by the qualifying broker with responsibility for the trust account.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING

CHAPTER 61 REAL ESTATE BROKERS

PART 24 PROPERTY MANAGEMENT

The Commission is proposing to amend Part 24 to:

Require property managers to deliver fully-executed property management agreements and all other documents related to the property management transaction to property owners, except if prohibited by contract or law from providing certain documents.

Require that property management agreements specify in writing that the brokerage relationship between the property manager and the property owner is an exclusive agency relationship.

Require that property agreements disclose the status of any foreclosure or other financial situation that could affect the tenants' residency.

Require that the property management agreement disclose to the property owner if the property manager is prohibited by law or contract from providing to the property owner certain information, including a tenant's criminal background check or credit report, and that the property management agreement includes the owner's written consent that such documents will not be provided.

