

## NM QB Workgroup Recommendations to the NM REC

### Next Steps

The Workgroup thanks the New Mexico Real Estate Commission for the opportunity to address this significant issue – one we remain convinced requires action. After our discussions with Lori Chavez and Jennie Lusk of the Attorney General’s office, we believe that a significant number of our recommendations can be acted on by the NM REC at its September meeting; as they are within the authority given to the REC by NM Statute. We understand that other points of view may exist, and to that end, hope that the public posting, comments, and hearing process can be accomplished in 2016 for these changes:

- Responsibilities of a QB in New Mexico
- Qualifications for original QB licensure
- Qualifications for renewal of a QB license

In this, updated, set of recommendations, the formatting is as follows:

1. Rules Part 16: Redefine Responsibilities of QB’s
  - a. No “blueline” references to statute.
  - b. Presentation of the new, amended, rule
2. Rules Part 3 Qualifications for initial licensure as NM QB
  - a. Replace original Part 3 with the new Part 3
  - b. A list of classes that we recommend, but are not available at this time. We hope to bring those classes to the REC as soon as the Education Advisory Committee (EAC) makes them available.
3. Rules Part 13 Requirements for renewal of NM QB license
  - a. Replace original Part 13 with new Part 13
  - b. List of classes that we recommend be included in the new QB section of Part 13 as soon as the EAC makes them available.

### 1. Responsibilities of QB’s – Redefined

The REC QB Workgroup recommends that Rules Part 16.61.16.9. E. be replaced with the following language:

#### Definition

Rules Part 16.61.16.9 Responsibilities

- E. supervise all real estate related activities of associate brokers, qualifying brokers, and unlicensed staff affiliated with the brokerage, including:
  - (1) reviewing and maintaining all records and documents required for real estate related matters processed through the brokerage,
  - (2) providing or promoting appropriate training of all affiliated Brokers and staff for compliance with the NMREC Statutes and Rules

(3) supervising advertising of real estate or real estate services conducted on behalf of others by Associate Brokers, Qualifying Brokers, and unlicensed staff affiliated with the brokerage; and

(4) execute and maintain current written employment or independent contractor agreements with their Associate Brokers;

## 2. Qualifications for an Original NM QB License

The workgroup recommends that the rules for Part 3 be amended to read as follows:

PART 3  
REAL ESTATE BROKER'S LICENSE: EXAMINATION  
AND LICENSING APPLICATION REQUIREMENTS

Rules 16.61.3.7 and 16.61.3.8 remain unchanged

Rule 16.61.3.9 is retitled **Associate Broker Examination and Licensing Requirements** and is unchanged THROUGH SECTION C

Sections D and E are relabeled **16.61.3.10**, and titled **Qualifying Broker Licensing Requirements**, and reads:

A. To be eligible to apply for a NM QB license, an individual must furnish the commission satisfactory evidence of successfully completing the following:  
At least four year's active experience in New Mexico as a licensed Associate Broker during the 60-month period immediately preceding the filing of the application. This experience must be verified in writing by the Associate Broker's Qualifying Broker(s).  
OR

If licensed in another state, not less than four years active 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.

B. Documented qualifying transactional experience totaling 100 points; with at least 20 points earned 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(s). Transactions involving properties owned by the applicant do not count towards the required total. Points are awarded as follows and can be accumulated through any combination of the following activities

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.

In the event of transactions handled by "Teams" (i.e. more than one Associate Broker) then the Qualifying Broker(s) shall determine which Associate Broker is deserving of earning the points allowed; or the division of the allowable points between the team members.

Real Estate and Property Management Transactions

Total Points Available per Transaction Side

- 1. Residential dwelling sale transactions: ..... 5 points
- 2. Residential lot sale transactions: ..... 3 points
- 3. Residential lease transactions: ..... 4 points
- 4. Commercial improved property sales transactions: ..... 8 points
- 5. Commercial unimproved lot sale transactions: ..... 6 points
- 6. Commercial lease transactions: ..... 6 points

Property Management points are awarded for each location for which licensee has direct responsibility. Direct responsibility means acting as an agent for the owner and is not just "collecting the rent." A maximum of 25 points may be used from the Residential Property Management category with the rest of the licensees' points resulting from transactional activity.

Property Management points are accumulated as follows:

- 7. Residential Property Management – each unit: ..... 1/2 pt/month
- 8. Commercial Property Management – each address: ..... 1 pt/month

C. The Educational Requirements are as follows:

- 1. Broker Office Administration: 4 day course with an in-course instructor created test; administered by the instructor, at the end of the course. (This is the current class offered by the commission.)
- 2. Understanding and Using RANM Forms (This is the current 8 hour Forms class offered by the commission.)
- 3. At least 8 hours Elective classes in the Professional Track of the applicant – Residential, Commercial, or Property Management.
- 4. Attend a New Mexico Real Estate Commission Meeting, or Rules Hearing, or Disciplinary Hearing.

D. An application for a Qualifying Broker license will include:

- 1 A notarized Affidavit of the applicant's acknowledgement of the responsibilities of a QB; including the direct supervision of all Brokers associated with the QB. Supervision shall be defined in the Affidavit as shown in Section 1 of these recommendations. However, a broker applying to be licensed as a Qualifying Broker that is supervised by another Qualifying Broker is not required to submit this Affidavit.

- 2 Supervisory Plan which will outline the QB's schedule of training and education provided or promoted, and policies for supervision of brokers. The A Supervisory Plan will be applicable to the individual applying for the NM QB license and for all Brokers associated with them. However, a broker proposing to be licensed as a Qualifying Broker supervised by another Qualifying Broker is not required to submit this Plan.

(The original language from Part 3 continues.)

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

F. 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 sections, document that they have met the requirements for and passed the associate broker's examination prior to being issued a qualifying broker's license.

G. An application for a New Mexico qualifying broker's license shall be made on the form prescribed by the commission, including the components listed in (4) a. and b., 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.

Current part F. Military Service Members shall be included and labeled as appropriate.

(Educational requirements to be added in the future as the class becomes available:

1. REC Responsibilities of Supervision: we suggest a 4 - 8 hour course which includes Regulations, E&O Claims, and recent Case Law.)

### **3. Requirements for Renewing a NM QB License**

The workgroup recommends that Part 13 be amended as follows:

**PART 13  
CONTINUING EDUCATION REQUIREMENTS  
AND BROKER LICENSE RENEWAL**

Parts 16.61.13.7, 16.61.13.8, AND 16.61.13.9 are unchanged – except as amended recently by the commission.

A new Part 16.61.13.10 shall read:

To be eligible to apply for the renewal of a NM QB license, an individual must furnish the commission satisfactory evidence of successfully completing the following:

- A. Education:, as part of the Real Estate commission mandated CEU's described in 16.61.13.8 Parts A and B:
  1. QB Refresher Course – as required by Rule 16.61.16.9.M
  2. Of the remaining required CEU's – at least 8 hours shall be chosen from the QB's professional track:
    - a. Residential – chosen from all NM REC approved classes
    - b. Commercial – chosen from classes approved by the NM REC from the following agencies:
      - i. CARNM
      - ii. CCIM
      - iii. SIOR
      - iv. CBI (Business Brokering)
    - c. Property Management – chosen classes approved by the NM REC from the following agencies:
      - i. IREM
      - ii. Other Property Management training entity approved by the commission.
  3. Attend at least one NM REC Meeting, Rules Hearing or Discipline Hearing
- B. An application for renewing a Qualifying Broker license will include a notarized Affidavit of the applicant's acknowledgement of the responsibilities of a QB; including the direct supervision of all Brokers associated with the QB. Supervision shall be defined in the Affidavit as shown in Section 3 of these recommendations. However, a broker applying to be licensed as a Qualifying Broker, but supervised by another Qualifying Broker, is not required to submit this Affidavit.
- C. An application for renewing a Qualifying Broker license will include a statement affirming that the QB substantially fulfilled the Supervisory Plan filed with the preceding application. Also, the renewing QB will attach a plan outlining the QB's schedule of training and education provided or promoted, and the policies for supervision of brokers in the next term. The Supervisory Plan will be applicable to the individual applying for the NM QB license and for all Brokers associated with

them. However, a broker licensed as a Qualifying Broker, but supervised by another Qualifying Broker, is not required to submit this Plan.

The QB Workgroup recommends that the following courses be added to the requirements to renew a QB license as soon as they are available:

- A. A Course in Contract Law, Contracts, and Forms: we suggest a new 4 – 8 hour course designed to accomplish, over a typical career, an increasing understanding of real estate law for QB's. Modules might be assembled from a variety of components prepared in cooperation with experts in New Mexico Real Estate law. Potential subject matter includes:
  1. Basic Contract Law
  2. Advanced Real Estate Legal Concepts:
    - i. We suggest that these concepts be arranged in a series of modules – each building upon the previous one in such a manner that the QB, over the course of their career (and a series of license renewals), would obtain a greater exposure to important legal concepts.
    - ii. Also, we suggest separate and specific modules for the different Professional Tracks – residential, commercial, and property management.
    - iii. And a module for recent changes in federal and state real estate laws.
- B. The QB Refresher Course should be upgraded from a 4 hour course to a 8 hour course.