

## Governor Signs Bill Making Unlicensed Activity a Felony

Governor Susana Martinez has signed into law the bill that increases the penalty for unlicensed real estate activity from a misdemeanor to a fourth-degree felony carrying a \$5,000 fine and 18 months imprisonment.

Senate Bill 105 was sponsored by Senator Tim Eichenberg at the request of the Real Estate Commission. Senator Eichenberg has been a licensed real estate broker since 1994 and his late father, Paul L. Eichenberg, served on the Real Estate Commission in the 1960's.

The new law would allow the Commission to direct a person found guilty of unlicensed activity to deposit commissions received from such activity in the Real Estate Recovery Fund, a fund established in 1980 to compensate consumers who suffer financial loss resulting from fraud, misrepresentation, or wrongful conversion of funds by a real estate broker.

Other major provisions of Senate Bill 105 are:

- A requirement for fingerprinting of applicants for New Mexico broker's licenses. Although there is currently a provision in the Real Estate License Law for criminal background checks of license applicants, the background checks are limited to New Mexico arrests. With the large number of out-of-state applicants for brokers' licenses, it is important that the Commission be able to conduct the same level of scrutiny of out-of-state applicants that it does for in-state applicants.
- Repeal of the exemption from continuing education for brokers who are 65 years of age with 20 years of continuous

licensure. Brokers already exempt on or before the July 1, 2011 effective date of the law will remain exempt.

- Repeal of language in the license law that refers to corporate real estate licenses. Although the Commission stopped issuing corporate licenses years ago, language in the law still refers to corporate licenses.
- Repeal of language in the exceptions to licensure section of the law that extends the exception to licensure to “lessors” of real property. Current law provides an exception to licensure for “owners and lessors” of real property up to the 100 subdivision unit limit.
- Amendment of language pertaining to foreign brokers to make the language in the law consistent with current language in the Commission Rules.

The new provisions in the license law are effective July 1, 2011.

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