AN ACT

RELATING TO REAL ESTATE; AMENDING THE REAL ESTATE APPRAISERS ACT TO PROVIDE FOR ACTION BY THE REAL ESTATE APPRAISERS BOARD WITHIN ONE YEAR FOLLOWING A COMPLAINT IN ORDER TO COMPLY WITH FEDERAL LAW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 61-30-15 NMSA 1978 (being Laws 1990, Chapter 75, Section 15, as amended) is amended to read:

"61-30-15. REFUSAL, SUSPENSION OR REVOCATION OF REGISTRATION, LICENSE OR CERTIFICATE.--

A. The board, consistent with Section 61-30-7 NMSA 1978, shall refuse to issue or renew a registration, license or certificate or shall suspend or revoke a registration, license or certificate at any time when the applicant, state apprentice real estate appraiser, state licensed real estate appraiser or state certified real estate appraiser, in performing or attempting to perform any of the actions set forth in the Real Estate Appraisers Act, is determined by the board to have:

(1) procured or attempted to procure a registration, license or certificate by knowingly making a false statement or submitting false information or through any form of fraud or misrepresentation;

(2) refused to provide complete information
in response to a question in an application for registration, a license or certificate or failed to meet the minimum qualifications established by the Real Estate Appraisers Act;  

(3) paid money, other than as provided for in the Real Estate Appraisers Act, to any member or employee of the board to procure registration, a license or a certificate;  

(4) been convicted of a crime that is substantially related to the qualifications, functions and duties of the person developing real estate appraisals and communicating real estate appraisals to others;  

(5) committed an act involving dishonesty, fraud or misrepresentation or by omission engaged in a dishonest or fraudulent act or misrepresentation with the intent to substantially benefit the registration, license or certificate holder or another person or with the intent to substantially injure another person;  

(6) willfully disregarded or violated any of the provisions of the Real Estate Appraisers Act or the rules of the board adopted pursuant to that act;  

(7) accepted an appraisal assignment when the employment itself is contingent upon the real estate appraiser reporting a predetermined analysis or opinion or where the fee to be paid for the performance of the appraisal assignment is contingent upon the opinion, conclusion or
valuation reached or upon the consequences resulting from the appraisal assignment; provided that a contingent fee agreement is permitted for the rendering of special services not constituting an appraisal assignment and the acceptance of a contingent fee is clearly and prominently stated on the written appraisal report;

(8) suffered the entry of a final civil judgment on the grounds of fraud, misrepresentation or deceit in the making of an appraisal; provided that the state apprentice real estate appraiser, state licensed real estate appraiser or state certified real estate appraiser shall be afforded an opportunity to present matters in mitigation and extenuation, but may not collaterally attack the civil judgment; or

(9) committed any other conduct that is related to dealings as a state apprentice real estate appraiser, state licensed real estate appraiser or state certified real estate appraiser and that constitutes or demonstrates bad faith, untrustworthiness, impropriety, fraud, dishonesty or any unlawful act.

B. The board, consistent with Section 61-30-7 NMSA 1978, shall refuse to issue or renew a registration, license or certificate and shall suspend or revoke a registration, license or certificate at any time when the board determines that the applicant or state apprentice real estate appraiser,
state licensed real estate appraiser or state certified real estate appraiser, in the performance of real estate appraisal work, has:

(1) repeatedly failed to observe one or more of the standards for the development or communication of real estate appraisals set forth in the rules adopted pursuant to the Real Estate Appraisers Act;

(2) repeatedly failed or refused, without good cause, to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal;

(3) repeatedly been negligent or incompetent in developing an appraisal, in preparing an appraisal report or in communicating an appraisal; or

(4) violated the confidential nature of records to which the state apprentice real estate appraiser, state licensed real estate appraiser or state certified real estate appraiser gained access through employment or engagement as such an appraiser.

C. The action of the board relating to the issuance, suspension or revocation of any registration, license or certificate shall be governed by the provisions of the Uniform Licensing Act; provided that the time limitations set forth in the Uniform Licensing Act shall not apply to the processing of administrative complaints filed with the board,
which shall be governed by federal statute, regulation or policy. The board shall participate in any hearings required or conducted by the board pursuant to the provisions of the Uniform Licensing Act.

D. The provisions of the Criminal Offender Employment Act shall govern any consideration of criminal records required or permitted under the Real Estate Appraisers Act.

E. Nothing in the Real Estate Appraisers Act shall be construed to preclude any other remedies otherwise available under common law or statutes of this state."