

Opinion No. 58-186

September 12, 1958

BY: OPINION OF FRED M. STADNLEY, Attorney General Fred M. Calkins, Jr.,
Assistant Attorney General

TO: Mr. George A. Kenyon, Executive Secretary, New Mexico Real Estate Board,
Room 511, Simms Building, Albuquerque, New Mexico

QUESTION

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"Can any individual who has been licensed as a resident real estate broker in the state of New Mexico under Article 24, Sections 67-24-1 through Section 67-24-18 of Chapter 67 of New Mexico Statutes 1953, Annotated, and who has established a residence in another state or country subsequently return to New Mexico and be re-licensed as a real estate broker upon payment of the necessary fee and filing of the required bond and meeting any other needed requirements without applying for and taking a broker's examination as required by applicants who have not previously been licensed as a real estate broker?"

CONCLUSION

Yes, provided that the Real Estate Board in its discretion desires to waive the examination.

OPINION

ANALYSIS

Section 67-24-10 N.M.S.A., 1953 Compilation, provides for the issuance, renewal and surrender of real estate licenses. The said section states in part that every license shall expire on the 31st day of December of each year and further that the Board shall issue a new license for each ensuing year in the absence of any reason or condition which might warrant the refusal of the granting of a license. This provision also provides that every real estate broker shall maintain a place of business in this State and that a change of business location without notification to the Board shall automatically cancel the license theretofore issued. The section is silent as to voluntary withdrawal or as to the method of reinstatement or readmission after a license has been cancelled by the Board because the real estate broker has left the State of New Mexico.

In view of the lack of a method of reinstatement or readmission in the real estate statute after termination of a license in instances such as are the subject of this opinion, we believe that the necessity of requiring reexamination should be left to the discretion of

the Real Estate Board. Assuming that the real estate broker has once qualified in New Mexico by taking the examination and meeting the other requirements of honesty, trustworthiness and of good moral character, we see no point in requiring another examination. If, however, the broker should abandon the real estate field and remove himself from the State for a period of years, then, perhaps, the Board, in its discretion, would be justified in requiring a reexamination.

In any event in the absence of a statute providing for reexamination prior to reinstatement or readmission, we believe that the necessity of requiring an applicant to be reexamined should be left to the sound discretion of the Real Estate Board.