

This is an amendment to 16.61.9 NMAC Section 8, effective 12-31-2008.

**16.61.9.8 REQUIREMENTS:** Whenever a [~~licensee is no longer transacting business at the office designated on that licensee's license, or at a temporary or field office associated with that office,~~] broker is no longer transacting business under the trade name and from the address registered with the commission the qualifying broker, or his properly designated "broker in charge", shall [~~immediately~~] return the license to the commission within forty-eight (48) hours. The license shall be inactivated and all real estate activity on the part of the licensee shall cease. [~~The license of any active broker or salesperson who fails to obtain errors and omissions insurance coverage as provided by commission rule or to provide proof of continuous coverage, either through the group carrier or in the case of equivalent coverage directly to the commission, shall be placed on inactive status until documentation of such coverage is received in the commission office.~~]

A. When a [~~licensee~~] broker requests that their license be placed on inactive status, the qualifying broker or broker in charge shall within forty-eight (48) hours return the license to the commission. The license shall be inactivated and all real estate activity on the part of the [~~licensee~~] broker shall cease.

B. When a qualifying broker returns their license to the commission for inactivation, they shall within forty-eight (48) hours either mail or deliver to the commission all licenses issued under that license. If the brokerage is to continue operation, an application for a new qualifying broker, along with transfer applications and appropriate fees for each license, shall also be included.

C. Inactivation of a license shall take place at the time a license is received and stamped at the commission office [~~or upon receipt of written notification to the commission by the qualifying broker or broker in charge of termination, whichever is earlier~~]. In the event that a license is lost, or otherwise unavailable for delivery by the qualifying broker to the commission office, inactivation of the license will take place at the time the commission receives and stamps a written notification from the qualifying broker that the associate broker longer is no longer affiliated with the brokerage.

D. The voluntary inactivation of a license will not [~~prohibit~~] prevent the commission from [~~revoking or suspending the rights to existing or future licensing~~] taking disciplinary action against that broker as provided in Section 61-29-1 through 61-29-29, NMSA, 1978.

E. [~~An inactive licensee must comply with commission rules and regulations including but not limited to those pertaining to disclosure that they are a real estate licensee, payment of renewal and transfer fees, and completion of continuing education.~~] Brokers whose licenses are inactive are required to fulfill the following requirements of licensure.

- (1) The payment of triennial renewal fees.
- (2) Submission of an arrest record report at the time of renewal.
- (3) Completion of continuing education requirements, except in the case of exemption from continuing education by virtue of being sixty-five (65) years of age and having had twenty (20) years of continuous licensure.
- (4) During the course of advertising personally owned property for sale, lease, or auction, disclosure that they are a licensed broker.

F. Brokers whose licenses are on inactive status are not required to have an errors and omissions insurance policy in effect while on inactive status. Inactive brokers are required to produce a certificate of current errors and omissions insurance as a condition of license activation.

[~~F~~]G. If a license has been placed in inactive status and is not renewed at the time of next renewal, that license [~~may not be subsequently renewed except as provided in Section 61-29-11, C, NMSA, 1978~~] shall expire. [8-15-97; 16.61.9.8 NMAC - Rn & A, 16 NMAC 61.9.8, 1-1-2002; A, 12-31-08]