AN ACT

RELATING TO LICENSURE; PROHIBITING REQUIRING RESUBMISSION OF
FINGERPRINTS TO RENEW A BUSINESS, PROFESSIONAL OR OCCUPATIONAL
LICENSE.

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

SECTION 1. Section 9-16-6 NMSA 1978 (being Laws 1983,
Chapter 297, Section 22) is amended to read:

"9-16-6. SUPERINTENDENT--DUTIES AND GENERAL POWERS.--

A. The superintendent is responsible to the
governor for the operation of the department. It is [his] the
superintendent's duty to manage all operations of the
department and to administer and enforce the laws with which
[he] the superintendent or the department is charged.

B. To perform [his] the superintendent's duties,
the superintendent has every power expressly enumerated in the

laws, whether granted to the superintendent or the department
or any division of the department, except where authority
conferred upon any division is explicitly exempted from the
superintendent's authority by statute. In accordance with
these provisions, the superintendent shall:

(1) except as otherwise provided in the
Regulation and Licensing Department Act, exercise general
supervisory and appointing authority over all department
employees, subject to any applicable personnel laws and
regulations;

(2) delegate authority to subordinates as [he]
the superintendent deems necessary and appropriate, clearly
delineating such delegated authority and the limitations
thereof;

(3) organize the department into those
organizational units [he] the superintendent deems will enable
it to function most efficiently, subject to any provisions of
law requiring or establishing specific organizational units;

(4) within the limitations of available
appropriations and applicable laws, employ and fix the
compensation of those persons necessary to discharge [his] the
superintendent's duties;

(5) take administrative action by issuing
orders and instructions, not inconsistent with the law, to
assure implementation of and compliance with the provisions of
.211568.1
law for whose administration or execution [he] the
superintendent is responsible and to enforce those orders and
instructions by appropriate administrative action or actions in
the courts;

(6) conduct research and studies that will
improve the operations of the department and the provision of
services to the [citizens] residents of the state;

(7) provide courses of instruction and
practical training for employees of the department and other
persons involved in the administration of programs, with the
objective of improving the operations and efficiency of
administration;

(8) prepare an annual budget of the
department;

(9) provide cooperation, at the request of
heads of administratively attached agencies, in order to:

(a) minimize or eliminate duplication of
services and jurisdictional conflicts;

(b) coordinate activities and resolve
problems of mutual concern; and

(c) resolve by agreement the manner and
extent to which the department shall provide budgeting,
[record-keeping] recordkeeping and related clerical assistance
to administratively attached agencies;

(10) appoint, with the governor's consent, a
"director" for each division. These appointed positions are exempt from the provisions of the Personnel Act. Persons appointed to these positions shall serve at the pleasure of the superintendent;

(11) give bond in the penal sum of twenty-five thousand dollars ($25,000) and require directors to each give bond in the penal sum of ten thousand dollars ($10,000) conditioned upon the faithful performance of duties, as provided in the Surety Bond Act. The department shall pay the costs of these bonds; and

(12) require performance bonds of such department employees and officers as the superintendent deems necessary, as provided in the Surety Bond Act. The department shall pay the costs of these bonds.

C. The superintendent may apply for and receive, with the governor's approval, in the name of the department any public or private funds, including United States government funds, available to the department to carry out its programs, duties or services.

D. The superintendent may make and adopt such reasonable and procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions; provided that where a licensing entity requires submission of fingerprints as part of the initial license application, and a licensee has provided fingerprints and the
license has been issued, the licensing entity shall not require a licensee to submit fingerprints again to renew the license, but a licensee shall submit to a background investigation if required. No rule or regulation promulgated by the director of any division in carrying out the functions and duties of the division shall be effective until approved by the superintendent, unless otherwise provided by statute. Unless otherwise provided by statute, no regulation affecting any person or agency outside the department shall be adopted, amended or repealed without a public hearing on the proposed action before the superintendent or a hearing officer designated by [him] the superintendent. The public hearing shall be held in Santa Fe unless otherwise permitted by statute. Notice of the subject matter of the regulation, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed regulation, proposed amendment or repeal of an existing regulation may be obtained shall be published once at least thirty days prior to the hearing date in a newspaper of general circulation and mailed at least thirty days prior to the hearing date to all persons who have made a written request for advance notice of hearing. All rules and regulations shall be filed in accordance with the State Rules Act."

SECTION 2. Section 60-1A-7 NMSA 1978 (being Laws 2007, .211568.1
Chapter 9, Section 7) is amended to read:

"60-1A-7.  ALL LICENSE APPLICATIONS--BACKGROUND INVESTIGATIONS--RULES.--

A.  A person applying for a license pursuant to the Horse Racing Act shall submit to a background investigation to be conducted by the board. The commission and the board shall adopt rules to coordinate the manner in which the background investigations are conducted. The rules shall at minimum require that:

(1) an applicant for a license or license renewal shall submit two fingerprint cards to the commission, with one card to be submitted to the board for a statewide check and the other card to be submitted to the federal bureau of investigation for a nationwide check;

(2) arrest record information from a law enforcement agency or the federal bureau of investigation and information obtained as a result of the background investigation conducted by the board is privileged and shall not be disclosed to persons not directly involved in the decision affecting the specific applicant;

(3) an applicant shall provide all of the information required by the commission; and

(4) the cost of the background investigation shall be paid by the applicant.

B. An applicant for a license who is denied the
license by the commission shall have an opportunity to inspect and challenge the validity of the record on which the denial of the license was based."

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

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