



TREC Advisor

The agency exists to safeguard the public interest and protect consumers of real estate services. In accord with state and federal laws the agency oversees real estate brokerage, appraisal, inspection, home warranty and timeshare interest providers. Through education, licensing and regulation, the agency ensures the availability of qualified and ethical service providers, thereby facilitating economic growth and opportunity in Texas.

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Update on CE Deferral Fee payment

Ever waited until the last minute to complete your Continuing Education (CE)? Do you usually defer completion of your education to the months following your expiration? Well then, please be aware that the previously published proposed rule change regarding the timing of payment of the CE deferral fee was adopted by the Commission at their November meeting. It may affect your plans.

This CE deferral fee was previously charged after a license holder renewed if CE was not completed by the license expiration date. Under the new rule, effective January 1, 2015, the fee is due at the time you renew your license if receipt of course completion documents for all required continuing education has not been received by TREC. Even if you renew weeks or months before your license expires, you will need to pay the fee if your continuing education has not yet been completed and received by TREC. Check our website to see if your CE is entered in your education record.

What does this mean for license holders?

It means that if you want to renew your license on "active" status (meaning you can continue to work without interruption) you will need to complete your continuing education well in advance of your expiration date. If you have not finished your education by the time you renew, the CE deferral fee can be paid and then you can continue to work for an additional 60 days after your license expires while you complete your CE. If TREC has not received

evidence that your CE is completed 60 days after your license expires, your license will be set to INACTIVE status. Once you have completed your CE, you may return your license to active status. The CE deferral fee is non-refundable, as are all of our fees.

If you want to avoid paying the CE deferral fee, our advice is to make sure you get your CE completed with plenty of time for providers to send evidence of course completion to TREC before your expiration date.

If you choose to renew your license on INACTIVE status because your required CE is not yet completed, remember that you CANNOT continue to work as a license holder while your license remains inactive. And if you are a broker, all of your sponsored agents will become INACTIVE as well.

The rule regarding deferral of continuing education can be found in TREC Rules 535.91(g). The Commission adopted comprehensive amendments to Chapter 535, effective January 1, 2015, so be sure to review the complete [rules on our website](#) to get up to date on all of the recent changes.

Are you a continuing education provider? Read our notice on page 3 of this issue of the Advisor for information on a new reporting tool for rosters.

At our regular quarterly meeting on November 18th, the Commission met to advance its important work of ensuring real estate service providers are fully prepared to provide high quality service to the people of Texas. At our meeting, we heard progress reports from two of our advisory committees – the Education Standards Advisory Committee and the Broker Responsibility Working Group, and from the Administrator and staff. There has been a lot of activity over the fall season and for that we offer our sincere gratitude to the many volunteers who staff these important advisory working groups.

We heard the State Auditor's office detail the findings of their special audit this summer. Our staff made several changes to official reports to better reflect the wishes of the auditor. Training the instructors who will present the new Broker Responsibility Course for 2015-16 began in earnest and feedback has been very positive. Use of applied concepts discussion segments are a key improvement to the 2013-14 edition of this important course. Many thanks to the agency team members, Commissioners and other volunteers who contributed significantly to these major advancements.

As our year-long quadrennial rule review process wrapped up, we maintained the recognition of "correspondence" delivery for course providers while ESAC conducts a public series of stakeholder input meetings to help them shape a more effective recommendation. We approved previously published amendments to several chapters and an update to the promulgated form for Reservation of Oil, Gas and Other Minerals. These included a fee reduction for license renewals commencing January 1, 2015, edits to

the experience credit scoring form for new broker applicants and the requirement to identify the transactions for which an applicant claims experience credit.

We are planning to have a "housekeeping" bill presented in the 2015 legislative

session to clarify certain areas of the Occupations Code Chapter 1101, including updating terminology to cover certain areas of practice and key notices to consumers and clients. Key elements that we hope to improve involve emphasis on education for promulgated contracts, equity for inactive license holders, more flexibility for continuing education, and enhanced confidentiality of complaint investigations. We'd appreciate your help in getting these topics addressed and passed when you come to the hill next spring.

Our next regularly scheduled meeting is on Monday, February 9th. The Texas Association of Realtors midyear meeting will begin the weekend prior and the legislative session will have begun, so if you are in town, please stop by to see your Commission at work. We promise the Commission will continue do its part to assist you in serving Texans with the highest standards in the real estate profession. Our appreciation goes out for your continued support and for making our job easy with your professionalism. For now, we hope you each have a very Merry Christmas and a great Holiday season, enjoying time with family and friends. And may the New Year bring us all much success!



Avis Wukasch, Chair

IMPORTANT DATES TO REMEMBER

Education Standards Advisory Committee—January 6

TREC Commission Meeting—February 9

Check the [TREC website](#) regularly for postings of our upcoming meetings.

NOTICE TO CONTINUING EDUCATION PROVIDERS **REVISED PROCESS FOR POSTING CONTINUING EDUCATION COURSE COMPLETION RECORDS**

Effective January 1, 2015, amendments to Commission rules will require that the Continuing Education (CE) deferral fee of \$200 be paid by the license holder upon filing a renewal application if TREC records do not reflect completion of CE requirements.

How does this rule change affect license holders and CE providers?

License holders will need to complete their education well in advance of their renewal date to allow providers time to submit CE course completion records to TREC. To accommodate this change, a process is currently being developed that will allow CE providers to post course completion records directly into the TREC database. This process should be available in early January 2015.

How will the new CE posting system work?

The designated office manager for the provider will create an account through TREC's My License Online Services and will onboard and register the provider to allow access to the CE posting system. The provider's email address and a password will be required to access the system each time course completion records are posted.

The information necessary for the provider to post course completion records in this manner will include the provider number; course number; course start date (if a distance education course); course completion date; name and license number of each student; and the instructor license number. All instructors that are approved by TREC have been provided with an instructor license number for this purpose. Education providers must also continue to retain course completion documents in an electronic or paper file.

Education posted by the provider will be viewable within 24 hours on the TREC website by the license holder. For this reason, it will be important that providers post CE completion records in as timely a manner as possible. In order for a license holder to avoid the assessment of the CE deferral fee, education must be posted to TREC's database prior to filing a renewal application.

After the CE posting system is in place, may I post education to the system and send a roster to TREC via email or fax?

No. This is a duplication of efforts and would waste time that could best be spent on other processes.

As a CE provider we currently post our education through the existing web service. Are we required to change our current method of CE posting?

No. However, you will need to update the information that you already provide TREC to include the instructor license number as well as the course delivery method and course start date (for courses other than classroom).

As a CE provider we currently post our education by sending TREC an XML file. Are we required to change our current method of CE posting?

Yes. We are eliminating this method of posting. You will be required to post your course information into the new CE posting system as soon as it is available or post through the web service.

As a CE provider, how soon after a course is complete should I post information into the CE posting system?

Section 535.72 of the Commission rules has always required that providers submit course completion rosters within 10 days following course completion. Providers are advised to post information into the CE posting system as soon as possible after the course has been completed and definitely within the 10-day timeframe. This will allow license holders to pay the renewal fee without being charged the \$200 CE deferral fee at the time the license is renewed. Inform students attending courses that are offered within 10 days of their expiration date they may be required to pay the CE deferral fee if their CE is incomplete or hasn't been posted to the TREC system.

Additional information will be provided via email to our CE providers as soon as we have specifics to share.

If you have any questions regarding this notice or any other education related matter, please contact an Education Specialist at 512-936-3120.

The Practice of Law -- Do You Know Your Limits as a Real Estate Agent?

A client asks, "Can you write this contract so I can lease-to-own?" "Is the other party to this contract in breach?"

Because real estate agents work with contracts that define a person's legal rights and obligations, it is important to know your limits if you are not a licensed attorney. It is also important to recognize when the best thing you can do for your client is to recommend that they seek private legal counsel.

The practice of law is defined by Section 81.101 of the Texas Government Code and includes giving advice or rendering any service that requires the use of legal skill or knowledge, such as preparing a contract. Section 1101.654(c) of The Real Estate License Act creates an exception for real estate license holders who complete contracts using a form prepared by an attorney, prepared by a property owner, or adopted by the Texas Real Estate Commission.

A real estate agent should not draft a legal document that affects real property nor should a real estate agent write more than a factual statement or business detail in the special provisions of a contract. If a client asks you to insert a provision that cannot be easily understood or may be subject to interpretation, then you should advise the client to seek an attorney who can draft the

provision for them. For example, a provision intended to create a lease-to-own transaction should be drafted by an attorney.

A real estate agent may not give advice or an opinion as to the legal effect of a contract. When a client asks, "Is the other party to this contract in breach?" a license holder can only point out a relevant provision that may apply to the situation. If the client has a question regarding the interpretation of the provision, then you should advise them to seek private legal counsel. When there is an unusual matter involved in a transaction, a real estate agent must advise the client to consult an attorney before a contract is executed.

The unauthorized practice of law by a real estate agent may result in revocation or suspension of your real estate license and an administrative penalty as the result of an investigation by the Standards & Enforcement Services Division of the Texas Real Estate Commission. You may also find yourself a party to a lawsuit initiated by the Texas Unauthorized Practice of Law Committee. For more information regarding the unauthorized practice of law and the use of standard contract forms, see Section 1101.654 of The Real Estate License Act (unauthorized practice of law) and Section 537.11 of the Rules of the Texas Real Estate Commission (use of standard contract forms).

TREC HOLIDAY HOURS ANNOUNCED

The Agency's offices will be closed on:

December 24, 25, and 26 for the Christmas Holiday

January 1 & 2 for New Year's Holiday

Our office hours are Monday through Friday from 8:00 am to 5:00 pm and the call center is available from 7:00 am to 6:00 pm.

Happy Holidays!



Subchapter A: Definitions

§535.1, Definitions

“licensee” is now “license holder”

“promptly” and “reasonable time” were replaced throughout the chapter with the specific timeframe previously set out in the chapter definitions (3 days and 10 days respectively) so that the required timeframe would be immediately clear in each rule

Subchapter B: General Provisions Relating to the Requirements of Licensure

§535.2, Broker Responsibility

requires the broker give notice of the scope of authorized activities to a sponsored salesperson *in writing*

ties the handling of trust funds to the requirements of revised §535.146

§535.4, License Required

holds a person conducting brokerage business from another state through the mail, internet or other medium under the jurisdiction of The Real Estate Licensing Act (Act) if the property is located in Texas

§535.5, License not Required

clarifies that a person may not use options or contracts to purchase to engage in real estate brokerage

§535.21, Mailing Address and other Contact Information, moved from §535.96

Subchapter D: The Commission

§535.43, Education Standards Advisory Committee, moved from §535.75,

adds staggered terms for members

§535.44, Commission Seal, (NEW)

clarifies Commission seal may be used only by the Commission

Subchapter E: Requirements for Licensure

§535.51, General Requirements for a Real Estate License

sets out all of the general requirements in one rule

§535.54, Hearing on License Denial and Probationary Licenses

moved from §535.94 and clarified

§535.55, Education and Sponsorship Requirements for a Salesperson License

clarifies all requirements

§535.56, Education and Experience Requirements for a Broker License

clarifies all requirements and revises the experience

point credits

§535.57, Examinations

puts all relevant current provisions for examinations in one location

adds more specific requirements regarding the administration of licensing examinations

Subchapter F: Requirements for Education Providers, Courses and Instructors for Qualifying Education

reorganizes and updates pre-licensure education program rules to better reflect TREC policies and procedures

§535.60, Definitions,

“proprietary school” is now “provider”, “core” is now “qualifying”

§535.61, Approval of Providers of Qualifying Courses,

clarifies that approved providers can provide approved real estate and real estate inspection qualifying courses and not have to get a separate approval by license program

trade associations are no longer exempt from becoming a provider for real estate but still exempt for inspector program

§535.62, Approval of Qualifying Courses

clarifies process

defines allowable combination of delivery methods for courses

§535.63, Approval of Instructors of Qualifying and Non-Elective CE Courses

puts all instructor approval provisions for these course in one location for real estate and inspector instructors

beginning January 1, 2016, instructors will be required to complete 8 hours of adult education training every 5 years

§535.64, Content Requirements for Qualifying Real Estate Courses

Sets out approved course content requirements

subjects permitted for related credit hours for a broker’s license reduced

§535.65, Responsibilities and Operations of Providers of Qualifying Courses

Class rosters for pre-licensure courses still have to be retained by providers but *do not* have to be

delivered to TREC monthly

Certificates of completion issued by the provider now must also include the instructor's name and TREC identification number and the date of issuance, in addition to the date the student began and completed the course

For Alternative Delivery and Correspondence Courses, providers must ensure that a qualified person is available to answer students questions *in a timely manner* and that a student completes all instructional modules before receiving credit for a course

§535.66, Credit for Courses Offered by Accredited Colleges or Universities, (NEW) recognizes that accredited colleges and universities are exempt from approval as a provider by statute but also recognizes the Commission's statutory right to determine whether any course satisfies the requirements of Tex. Occ. Code Chapters 1101 and 1102 and gives appropriate meaning to the use of the word "accredited" in the exemption

No fee is required for pre-approval of a course given by an accredited college or university in accordance with the curriculum accreditation standards required of the college or university by the applicable accreditation association

Preapproval of all other courses given by an accredited college and university must comply with §535.62, including payment of a fee

TREC can decline to give credit for a previously approved course, if, after investigation of complaints or an audit, TREC determines that the college or university is not in compliance with the course approval given

§535.67, Qualifying Education: Compliance and Enforcement

Subchapter G: Requirements for Continuing Education Providers, Courses

and Instructors

reorganizes and updates continuing education program rules to better reflect TREC policies and procedures

§535.70, Definitions

MCE is now CE and consists of Non-Elective CE and Elective CE

§535.71, Approval of CE Providers

clarifies approved CE providers can provide approved CE real estate and real estate inspection courses and not have to get a separate approval by

license program

§535.72, Approval of Non-elective Continuing Education Courses

§535.73, Approval of Elective Continuing Education Courses

§535.74, Approval of Continuing Education Instructors for Elective Courses

§535.75, Responsibilities and Operations of Continuing Education Providers

Class rosters or Alternative/Correspondence Instructions Methods Reporting form will continue to be required to be submitted in a format required by TREC for all CE courses

open enrollment to the general public for all courses was removed to recognize that trade associations market courses to members who pay dues and allow brokerage firms to become providers for in-house training

proctored supervised videos for CE classroom instruction was removed but videos can be used in a classroom course taught by an approved instructor

for consistency, partial credit for real estate CE courses is no longer allowed since partial credit is not currently allowed for real estate qualifying, inspector qualifying, and inspector CE courses

§535.77, CE Providers: Compliance and Enforcement

Subchapter I: License Renewal

restructures and clarifies the rules regarding license renewal

§535.91 Renewal of a Real Estate License

the fee to defer completion of continuing education for up to an additional 60 days will now be due at the time of the filing of the renewal application

CE credit for a subsequent licensing period will not start until after all deferred CE has been completed

§535.92. Continuing Education Requirements

§535.93. Late Renewal Applications

a CE deferral fee and a CE late reporting fee may be due depending on when CE for the subsequent licensing period was completed

Subchapter J: Fees

revises fees effective January 1, 2015, as part of the FY2015 budget adopted by the Commission, including restructuring license fees by reducing renewal fees and increasing fees for initial

applications and reinstatements, and setting out the statutory fee required for the Real Estate Recovery Trust Account (see new fee schedule)

Subchapter L: Inactive License Status

restructures and adds language to more clearly set out when each real estate license type becomes inactive and how to reactive a license on inactive status.

§535.121. Inactive Salesperson License

§535.122. Reactivation of Salesperson License

§535.123. Inactive Broker License (includes reactivation paragraph)

Subchapter R: Real Estate Inspectors

§535.208 restructures and adds provisions related to license renewal for members of the military and military spouses

§535.209 clarifies that an applicant is not eligible to take the inspector examination until the applicant provides evidence to the Commission that all education and experience requirements have been met

§§535.213 and .218 are restructured for improved readability after removal of certain provisions related to education providers, courses or instructors that were moved to Subchapters F or G

§535.210 revises fees effective January 1, 2015, as part of the FY2015 budget adopted by the Commission, including restructuring inspector license application fees, slightly reducing the examination fee, significantly reducing the contribution to the Real Estate Inspection Recovery Fund, and reducing the fee for approval of continuing education courses to \$50 plus \$5 per classroom hour

Highlights of new changes to Chapter 537 effective December 10, 2014

§537.11, Use of Standard Contract Forms was revised to allow computer programs permitting a principal to strike through the text of the promulgated form if the program is pre-approved by the Commission and to clarify that the blanks may be scalable to the text.

The revised Addendum for Reservation of Oil, Gas and Other Minerals was adopted for voluntary use until March 1, 2015, at which time its use shall become mandatory.

Highlights of new changes to Chapter 539 effective December 10, 2014

Revised to better reflect current TREC procedures and to simplify and clarify where needed to improve readability.

§ 539.140, Schedule of Administrative Penalties, was revised to insert statutory provisions that were previously inadvertently omitted.

Revised forms for the annual and mid-year reports, were adopted by reference in §§539.91 & 539.137 respectively

**Rules Proposed for Public Comment at
November 18, 2014 Commission Meeting**

§535.53, Business Entity; Designated Broker

The proposed amendments clarify the requirements necessary to apply for a business entity broker license and add language regarding what is required to meet the “in good standing” with the Commission standard set out in §1101.355 of the Texas Occupations Code for a broker to act as a designated broker for a business entity.

§539.81, Funded Reserves

The proposed amendments clarify what the Commission considers an acceptable “admitted insurer” that a residential insurance company can use to cover the liability remaining under the outstanding residential service contracts written in Texas in lieu of maintaining a funded reserve. This amendment will enable the Commission to ensure that consumers of residential service contracts have adequate protection as new insurance product become available to residential service companies.

§535.212, Education and Experience Requirements for a License

The proposed amendments revise the options through which an applicant may satisfy the field work component of the substitute experience requirement. The proposed amendments define the term “interactive experience training module,” increase the methods of delivery to satisfy each training option and reduce the required hours under one option to lower costs and promote hands-on training. The proposed amendments also extend the deadline that eliminates one option to allow course providers more time to develop courses for the other two options.

TREC Enforcement Actions

The Texas Real Estate Commission has published enforcement actions taken from November and October. To read the full report and get access to all of the enforcement actions taken by the commission please go to the TREC website and click on, "Complaints, and Consumer Info" and then click "[Disciplinary Actions](#)".

New Employee Update



Steve Spyropoulos *Information and Technology Services*

Joined TREC on December 8, 2014, as the Director of Technology Services in the Information and Technology Services Division. Steve has 15 years of IT leadership experience working for international firms like Schneider Electric, IBM and was most recently employed as a Project Manager at 3M. Steve enjoys performing volunteer work at Chaparral Ice where he teaches young boys and girls how to ice skate and play hockey. Steve is fluent in French and Greek and is working on his Spanish proficiency as well.



Karen Long *TREC Standards and Enforcement Services*

Joined TREC in November 2014 as an Administrative Assistant in the Standards and Enforcement Division. Karen previously worked for the Texas Department of Health and the Office of the Attorney General. Karen enjoys spending time with family and her pets and looks forward to working with everyone at TREC.

TALCB Bulletin



TALCB was created by an act of the Texas Legislature in 1991 to license, certify and regulate real estate appraisers in Texas under state and federal laws. In 2011, TALCB's jurisdiction was expanded to register and regulate appraisal management companies.

**INSIDE THIS ISSUE: 2015 AQB Criteria Changes (Page 1) From the Chair (Page 2)
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2015 Changes to Real Property Appraiser Qualification Criteria

The following changes to the Real Property Appraiser Qualification Criteria are effective January 1, 2015. These changes were adopted by the Appraiser Qualifications Board on December 9, 2011. For a full description of all of the changes, you may review [the chart](#) on the Appraisal Foundation website.

College level education will be required for new license applicants as follows:

- Licensed Residential Appraiser – will require 30 semester hours of college credit from an accredited college, junior college, community college or university, OR an Associate's degree or higher; and
- Certified Residential or General Appraiser – will require a Bachelor's degree or higher from an accredited college or university.

New Sponsors and Appraiser Trainees must complete the Sponsor –Trainee education course.

Appraiser Trainees must complete all qualifying education within the five-year period before the date on which an application is submitted for the Appraiser Trainee license.

Credit towards qualifying education requirements may be obtained by completing an AQB approved Real Estate degree program from an accredited college or university.

Written, proctored examinations will be required for all qualifying education distance course offerings. Exams may be administered on paper or electronically on a computer workstation or other device.

Except for the 7-hour National USPAP Update Course, appraisers may not receive credit for taking the same continuing education course offering within the appraiser's continuing education cycle.

Education AND experience requirements must be met before approval will be granted to take the AQB-approved National Uniform Licensing and Certification Examination.

Please contact us at information@talcb.texas.gov or (512) 936-3001 if you have questions.

At the Board's regular quarterly meeting on November 22nd, we welcomed a new member of the Board, Mr. Jim Jeffries of Georgetown. See the separate article in this issue for more details about our newest volunteer policy maker. Governor Perry appointed Mr. Jeffries to replace Luis De La Garza, who served over six years on the Board, including two as the Chair. We recognized Luis for his exceptional service and wished him well. We also heard reports from three of the Board's working committees and also from the AMC Advisory Committee, and from the Commissioner and staff. Serious work was accomplished since the summer by these groups and I want to thank each of the Board members and staff who contributed and assisted. Other business we accomplished includes approval of many Agreed Orders, approval of a modification request for a prior order, and consideration of Proposals for Decision from two hearings at SOAH.

We also adopted the final revisions to Chapter 159, completing our required quadrennial rule review process. Thanks to all for this necessary but tedious work. We happily approved a reduction to license renewal fees - \$10 for certificate holders, \$5 for license holders and \$20 for appraiser trainees, effective January 1, 2015. This is a modest effort to address the affordability elements of access to this field and to reverse the small fee increase from three years ago.

January 1, 2015 marks a milestone event in appraiser qualifications enacted by the Appraiser Qualification Board. After that date, an applicant for a license must have the equivalent of a Associate's Degree and for a certification, a Bachelor's Degree will be required. If an applicant has completed all requirements for issuance of a license or certificate prior to December 31, 2014, including the exam, applications submitted to the Board before the deadline will be considered under the current requirements. There are no exceptions – except for limited concession available to certain military members called to active duty since 2008.

Also new in 2015 – for each supervisory appraiser who

agrees to sponsor an appraiser trainee, both the supervisor and the trainee must complete a new course detailing the duties of each under current regulations. Since insufficient preparation of trainees and oversight by supervisors has been a common source of regulatory complaints for quite some time, this course is designed to improve the understanding of the duties and responsibilities of each party to the relationship. To further encourage compliance, the course does count for ACE credit for the supervisor.

To prepare for the legislative session in 2015, we have been working closely with FACT – the alliance of appraiser professional associations - to ensure that any requests for changes to public policy to be made in the licensing law are supported by representatives of the industry. The next regular Board meeting is scheduled for February 20, where we will be briefed on any progress.

Lastly, the state of Texas relies on volunteer professionals like you to serve on the boards and commissions that comprise a significant part of the state's regulatory structure. We need more volunteers. Check out the Board member page of the TALCB website (www.talcb.texas.gov) for details and a link to the Governor's office. If you'd like a personal perspective of what this service means to the profession and to the public, I'm sure any Board member would be willing to share their experiences with you. Contact information for each of us is also found on that same page. We truly welcome your interest.



Chair, Jamie Wickliffe

IMPORTANT DATES TO REMEMBER

AMC Advisory Committee —Teleconference—February 12

TALCB Board Meeting—February 20

Check the [TALCB website](http://www.talcb.texas.gov) regularly for postings of all of our upcoming meetings.

TALCB Appointment Announced

Governor Perry has appointed Mr. James J. Jefferies of Georgetown to the Texas Appraiser Licensing & Certification Board (TALCB). Mr. Jefferies will serve as an appraiser member, replacing past Chair Louis De La Garza of Laredo. His term will expire January 31, 2016.

Mr. Jefferies has been a real estate appraiser since 1973 and currently holds a Certified General Appraiser license. In the past five years, Mr. Jefferies has prepared conservation easement appraisals on 70 properties covering approximately 355,000 acres for private and public clients. He has also rendered professional appraisal reviews on a large number of conservation easement appraisals prepared by other appraisers. In addition to this specialized conservation easement work, Mr. Jefferies has also prepared many other appraisals on farm and ranch properties.

Mr. Jefferies earned a Master's degree in political science from Ohio State University. He is a past President of the Austin Chapter of the Appraisal Institute (AI), the past Chair of the Texas Land Trust Council (TLTC), and has served on the Board of Directors of the Austin Chapters of AI, TLTC, and the Texas Chapter of the American Society of Farm Managers and Rural Appraisers (ASFMRA).

The Texas Appraiser Licensing & Certification Board works to protect the public through the agency's programs of education, licensing and regulation to ensure that real estate appraisers and appraisal service providers are competent and trustworthy. More information on the Board and its programs can be found at www.talcb.texas.gov.

CHANGES TO THE 2015 NATIONAL UNIFORM LICENSING & CERTIFICATION EXAMINATIONS

Earlier this year the Appraiser Qualifications Board (AQB) conducted an online survey of licensed and certified appraisers to determine what tasks they perform in their profession and the relative importance of each of those tasks. A "Job Analysis" was developed and the AQB, working with examination developer PSI, created a new Examination Content Outline (ECO) that identifies what appraisers should know and be tested on to qualify as competent entry-level practitioners.

Based on the new ECO, the examinations effective January 1, 2015 for the Licensed, Certified Residential and Certified General appraiser classifications will consist of 125 examination

questions each (15 of which will be unscored pretest questions). Currently, there are 165 questions with 15 unscored pretest questions.

The total exam time will remain at 6 hours for the Certified General examination and will be reduced from 6 to 4 hours for the Licensed and Certified Residential examinations.

Scaled scoring has been utilized for the National Uniform Licensing and Certification Examination since the examinations were developed by the AQB in 2008. For a detailed explanation of scaled scoring, please visit [The Appraisal Foundation website](http://www.appraisal-foundation.org).

TALCB HOLIDAY HOURS ANNOUNCED

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January 1 & 2 for New Year's Holiday

Our office hours are Monday through Friday from 8:00 am to 5:00 pm and the call center is available from 7:00 am to 6:00 pm.



Appraisals are undergoing much more scrutiny than in the past. Not only are appraisal reports submitted to the Federal Housing Administration (FHA) subject to periodic quality control reviews, but Appraisal Management Companies (AMC's) are required under Texas law to review a certain amount of appraisal reports and are report relevant USPAP violations to the appraiser's state regulatory board. Arming ourselves with the necessary information to allow us to provide quality professional services not only protects the consumer but also protects the appraiser from the consequences of costly errors.

FHA's Denver Home Ownership Center has conducted training seminars across our region. This article will touch on selective information presented at the training session.

FHA Quality Control Process

FHA Roster appraisers should be aware that FHA Roster Appraisers are reviewed every three years to insure credibility, accuracy, and compliance with FHA and USPAP standards and guidelines. If minor deficiencies are found, the appraiser may be issued a Notice of Deficiency. If the deficiencies are more serious, but do not warrant formal discipline, the appraiser may be required to take remedial education. These are not considered to be sanctions and there is no appeals process.

If more serious deficiencies are found the disciplinary actions may be more severe. The appraiser may be removed from the FHA Roster for a period of time, be required to take remedial education, have their eligibility to perform FHA appraisals restricted, or the appraiser may be removed from the roster indefinitely. If the violations are egregious enough, the appraiser may be referred to the appropriate authorities for civil or criminal prosecution. These disciplinary actions can be appealed.

FHA typically reviews several reports completed by each appraiser reviewed. If sanctions are imposed, FHA notifies the appropriate state regulatory agency and provides a written report of the reviewer's findings to the agency. The appraiser may further be subject to an investigation by the agency and possibly additional sanctions.

Condition issues

Remembering it is the appraiser's responsibility to report all they know about a property will go a long way in keeping the appraiser from being investigated and possibly sanctioned. Decisions regarding the eligibility of the property for FHA financing are up to the underwriter. The appraiser is the lender's "eyes" in the field. The appraiser must note those repairs necessary to make the property comply with FHA's Minimum Property Standards and provide an estimate of the cost to cure the deficiency. Inspections should be required for conditions beyond the appraiser's expertise to evaluate or that may affect the safety, security, or soundness of the property. The appraiser should state the reason for the inspection. Items that may require further inspection may include pest infestation, foundation or structural issues, roof damage, and plumbing, heating, or electrical systems issues. Cosmetic items such as worn flooring, holes in window screens, or a small crack in a windowpane are not required to be repairs but must be reported to the lender and considered in the overall condition rating and valuation of the property. The lender will determine which repairs must be made for the property to be eligible for FHA-insured financing.

Exhibits

Among the common deficiencies noted by the FHA field reviewers is the failure to provide the required exhibits. These include:

Location Map

A legible location map showing pertinent details such as roadways and street names is required as part of the report. If substantial distances exist, additional maps may be necessary. The reader should be able to determine the exact location of the subject and comparable sales. The appraiser should keep in mind that an FHA field reviewer may need to use these maps when performing a review and prepare these exhibits accordingly.

Flood Hazards

As may be seen over the past several years, the awareness of flood hazards has increased dramatically. At its presentations, FHA focuses heavily on the

appraiser's responsibility to identify and measure the market impact of flood hazards.

In the site section of the appraisal report the appraiser must enter the Federal Emergency Management Agency (FEMA) designation, map panel number, and map date on the reporting form. Additionally, the appraiser must quantify the affect on value, if any, on the subject property. While a copy of the flood map may not be required for many clients, FHA requires that if any part of the property is located within a flood hazard area the appraiser must attach a copy of the flood map panel to the appraisal report. It is the appraiser's responsibility to determine if any portion of a property is located within a flood hazard area and to inform the lender. It is the lenders responsibility to determine if the property would qualify for FHA insurance.

Appraisers working near coastal areas should be aware that properties located within a Costal Barrier Resource System (CBRS) are not eligible for FHA insurance. These areas are often identified on the FEMA Flood Maps by patterns of backward slanting diagonal lines. If the subject property is located within the CBRS boundaries, the appraiser should stop work on the assignment and notify the lender.

Building Sketch

A building sketch including all offsets such as porches, patios, garages, and decks, and should include all dimensions. The sketch should state if the offsets are "covered" or "uncovered". FHA does not require interior walls on the sketch unless they are necessary to illustrate functional obsolescence. Notations of floor and wall covering are not required. The report must include the calculations used to arrive at an estimated gross living area.

Photographs

The appraisal must include photographs of the subject front, rear, left and right sides, as well as all improvements with contributory value that are not

captured in the other photos, as well as the subject street scene showing a portion of the subject site, and a front scene of the comparable sales. Original photos are required for the subject and all of the comparable sales. The photos taken by the appraiser are considered to be evidence of compliance with the appraiser's scope of work. MLS photos may be included as additional photos; however, they are not to be used as the primary photo. Additional photos of positive or negative view influences, property condition deficiencies, or adverse conditions and interior photos depicting the quality of the subject finishes and features can provide strong supporting documentation and are always advisable. When photographing a vacant site for proposed construction, the photo must show the grade of the site to illustrate proper drainage.

Understanding the needs and expectations of the client is an important step in providing good quality professional appraisal services. FHA is revising their handbook to further assist appraisers in meeting FHA requirements. The new handbook will be a single, up-to-date and authoritative source for all stakeholders. FHA released a draft of its new Single Family Housing Policy Handbook on July 31, 2014. Appraisers are encouraged to review the draft and provide feedback at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/SFH_policy_drafts

For more information regarding the requirements of FHA assignments visit the "Mortgagee Letters & Handbook for Roster Appraiser" page of the [FHA website](#). Additional information or assistance can be obtained by contacting the FHA Appraisal/Technical Support Branch at the Denver Homeownership Center by phone at 800-225-5342 (800-Call-FHA).

Major contribution made by the presenters at the FHA training seminars, Mr. Doyle Clark and Mr. Gary Eisenbraun.

TALCB Enforcement Actions

The Texas Appraiser Licensing and Certification Board has published their enforcement actions from the November 21, 2014 meeting. To read the full report please go to the [TALCB website and click](#) on, "Complaints, and Consumer Info".

Rules Actions from the November 21st Meeting of the Board

The Board took the following actions regarding rules at its meeting on November 21, 2014. You may review the full text of all actions on the [Rules section](#) of the TALCB website.

EMERGENCY RULES

The Board adopted emergency amendments to the following rule at its meeting on November 21, 2014. The amendments to this rule are effective immediately.

22 TAC §153.9. Applications

Emergency amendments to this rule implement changes announced by the Appraiser Qualifications Board (AQB) on October 21, 2014 and allow the Board to evaluate applications consistent with the exceptions authorized by the AQB, including the exception for service on active duty in the United States armed forces. The Board also proposed these same amendments as described below under "Proposed Rules."

ADOPTED RULES

The Board adopted amendments to the following rules at its meeting on November 21, 2014. These amendments are effective on December 14, 2014, except for the amendments to Rule 153.5, which are effective on January 1, 2015.

22 TAC, Chapter 153:

- 22 TAC §153.1. Definitions
- 22 TAC §153.5. Fees

Amendments to 22 TAC §153.1 remove the definition of "contested case," which is defined elsewhere in Chapter 2001, Texas Government Code. Amendments to 22 TAC §153.5 implement reductions to appraiser renewal fees adopted by the Board as part of its FY2015 budget. The reductions are effective January 1, 2015.

22 TAC §157.31. Investigative Conference

Amendments to §157.31. Investigative Conference clarify the information that will be provided to a respondent prior to holding an investigative conference.

22 TAC, Chapter 159:

[22 TAC §159.1. Definitions](#)

[22 TAC §159.3. Appraisal Management Company Advisory Committee](#)

[22 TAC §159.4. Jurisdiction and Exemptions](#)

[22 TAC §159.52. Fees](#)

[22 TAC §159.101. Registration Requirements](#)

[22 TAC §159.102. Eligibility for Registration; Ownership](#)

[22 TAC §159.103. Applications](#)

[22 TAC §159.104. Primary Contact; Appraiser Contact](#)

[22 TAC §159.105. Denial of Registration](#)

[22 TAC §159.107. Expiration](#)

[22 TAC §159.108. Renewal](#)

[22 TAC §159.109. Inactive Status](#)

[22 TAC §159.154. Competency of](#)

Appraisers

[22 TAC §159.155](#). Periodic Review of Appraisals

22 TAC §159.156. Business Records

22 TAC §159.157. Compensation of Appraisers

22 TAC §159.159. Disclosure of Registered Name and Registration Number

[22 TAC §159.161](#). Appraiser Panel

[22 TAC §159.162](#). Dispute Resolution

22 TAC §159.201. Guidelines for Revocation, Suspension, or Denial of a Registration

22 TAC §159.204. Complaint Processing

Amendments to 22 TAC, Chapter 159 are made following a comprehensive rule review for this Chapter to better reflect current TALCB procedures and to simplify and clarify where needed. The proposed amendments capitalize the term “Board” and replace the term “licensee” with “license holder” throughout the Chapter. The proposed amendments also remove redundant or unused provisions and restructure certain rules to improve readability. Other specific proposed amendments include allowing an AMC to renew its license while the license is on inactive status.

REPEALED RULES

The Board adopted the repeal of 22 TAC §153.16. Provisional License. This rule was

repealed because the Board no longer issues provisional licenses.

PROPOSED RULES

The Board proposed amendments to the following rules at the Board meeting on November 21, 2014. These proposed amendments will be on the agenda for adoption by the Board at the February 20, 2015 meeting.

22 TAC §153.9. Applications

The proposed amendments to this rule allow the Board to evaluate applications consistent with the exceptions authorized by the Appraiser Qualifications Board (AQB), including the exception for service on active duty in the United States armed forces as announced by the AQB on October 21, 2014.

22 TAC §153.21. Appraiser Trainees and Sponsors

The proposed amendments would make this rule applicable to all appraiser trainees and sponsors and require all appraiser trainees and sponsors to take to the appraiser trainee/sponsor course within four years of their license renewal date. If adopted, the course requirement would become effective for all appraiser trainees and sponsors on September 1, 2015.

RULE REVIEW

The Board completed and closed the quadrennial review of Chapter 159, 22 Texas Administrative Code, Rules Relating to Provisions of the Texas Appraisal Management Company Registration and Regulation Act.

INSPECTOR INSIGHT



The Texas Real Estate Inspector Committee is as an advisory committee to the Texas Real Estate Commission on matters pertaining to the licensing and regulation of real estate inspectors. The Committee recommends rules and policies that ensure inspections meet high professional standards and enhance consumer protection.

Inside this Issue: From the Chair (page 1), TREIC Vacancies Announced (page 2) Fake Home Inspectors? (page 2)

From the Chair

The Commission's inspector advisory committee met on October 10 with a full agenda of items to consider and lots of interested parties in attendance, much of which was devoted to education related items. This key concern continues to merit our focused attention. In fact, the Committee's Education Subcommittee has agreed in 2015 to begin a comprehensive review of inspector education matters to, among other reasons, ensure we give proper credit to code-related education that many inspectors already take to maintain industry related designations earned by them. And also to reduce the burden if prudent for earning and maintaining an inspector license.

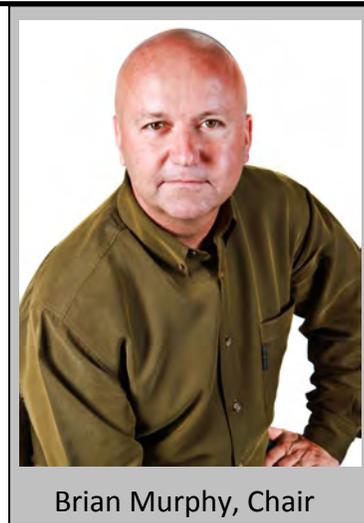
In 2014, the Committee made many recommendations to the Commission that were adopted by them. Here are some of the highlights: Lowered license fees for apprentice inspectors by \$24 and the exam fee by \$10. Also reduced the initial contribution to the recovery fund from \$100 to just \$10, since this fund has not paid a claim in the last 3 years. Inspector continuing education (ICE) providers, including trade associations, pay \$200 per year to register with the Commission, plus a \$50 base fee per ICE course and \$5 per credit hour sought. Approved courses are good for two years before re-approval must be sought. Approved ICE providers may also offer real estate CE courses, but the base fee and \$10 per credit hour is charged for such courses. Maintained fees for inspector educational instructors to \$50 for two years, while real estate instructors pay \$150 for two years. Loosened restrictions to allow a "ride-along" course, if offered as part of a qualifying inspection course, to have up to 10 students per session. Maintained the 32 hours of ICE per license period, but restricted single topic education to not more than 16 hours per two-year license period, and allowed up to 8 hours of ride-along class hours. Maintained the ICE requirement that 8 hours per license period must consist of 4 hours in Standards of Practice, and 2 hours each in Legal and Ethics Update. We maintained the "correspondence"

delivery method for both qualifying and ICE courses. These are just some of the topics we discussed this year.

While we truly appreciate the outstanding level of stakeholder participation in all of our deliberations, some inaccurate information about the process or the results has been widely circulated. Recent discussion with the trade associations TAREI

and TPREIA have resulted in a renewed commitment to work with the Committee and the Commission to achieve policies that fulfill the mission of the agency – while respecting the role of the associations to advance the interests of the inspector. In general, these goals need not be in conflict, despite some claims that there is an inherent conflict. I disagree. Conflict is a choice; not an inevitable result. All real estate service providers serve the ultimate interests of the client, and the mission of the agency is to ensure all Texans are served by policies that provide a high degree of service and protection.

The Commission is looking for qualified inspectors and public members to serve on the Inspector Committee to continue to address the issues and concerns of the public and our industry. See the separate article in this newsletter and on the agency's website for more details. Please consider being a volunteer or encouraging someone you know. The next Committee meeting is on February 27th. Details are on the website at the meetings link. We will always welcome your constructive participation.



Brian Murphy, Chair

TREC Inspector Committee Vacancies Announced

The Texas Real Estate Commission invites interested persons to apply for appointment to open public and inspector member positions on the Real Estate Inspector Committee.

This advisory committee's purpose is to make recommendations to the Commission regarding a variety of inspection-related matters with the goal of ensuring a high degree of service to, and protection of, the public when dealing with inspectors. The committee consists of six professional inspectors and three public members. Inspector members serve staggered six year terms and must hold a professional real estate inspector license. Public members serve staggered two year terms and cannot hold occupational licenses in the real estate field (e.g. appraiser, real estate broker/salesperson, mortgage broker, etc.); however, a municipal development planner, construction or safety code enforcement official, commercial banker, CPA, or attorney is permitted.

While the advisory committee is permitted to meet by teleconference, it is anticipated that some travel to Austin is necessary. Limited funds may be available for travel reimbursement, but volunteer members are not compensated for their time. All committee meetings must comply with the Open Meetings Act.

Individuals wishing to be considered for appointment should send a letter of interest and a current resume to the Texas Real Estate Commission, Attn: Administrator Douglas Oldmixon, PO Box 12188 Austin, TX 78711-2188 or by e-mail to administrator@trec.texas.gov. Materials must be received at TREC not later than January 31, 2015.

The mission of TREC is to assist and protect consumers of real estate services and foster economic growth in Texas. Through its programs of education, licensing and industry regulation, the Commission ensures the availability of capable and honest real estate service providers. More information at: www.trec.texas.gov.

Fake Home Inspectors?

There have been reports of possible "fake" home inspectors in Texas. These imposters have shown up, unsolicited, to homes and performed home inspections or services that could be considered home inspections. After services are rendered they have then asked for payment. These people have not produced license information and may be taking advantage of the

publics' naiveté of the rules and requirements of home inspectors in Texas. For more on this story [please watch](#) the report from KYTX—19 in Lufkin.

Please help spread the word and make sure no one else is taken advantage of.

IMPORTANT DATES TO REMEMBER

TREIC SOP Subcommittee—February 27

TREIC Committee Meeting—February 27

Check the [TREC website](#) regularly for postings of all of our upcoming meetings.