



TREC Advisor

Texas Real Estate Commission ★ Volume 13, Number 2 ★ June 2002

License Renewal Fees Increase Effective with 9/30/02 Expiration Dates

At its meeting on June 3, 2002, the Texas Real Estate Commission amended the fee structure for two-year broker and salesperson licenses effective with those licenses expiring on September 30, 2002 or later. The increase for two-year broker licenses is \$7, bringing the new total to \$507. Two-year salesperson licenses will increase by \$3 to \$98. The additional cost is for a subscription fee directed to the TexasOnline Authority as required by Senate Bill 187 enacted by the 77th Texas Legislature.

With the adoption of the fee increase and the payment of a subscription fee to the Texas Online Authority, individuals wishing to renew licenses or make application for a salesperson license over the Internet will no longer be required to pay a "convenience fee." Thus, the cost for license renewal will be the same whether it is made in person, by mail, or by an online transaction using a credit card.

Under the new fee structure, real estate brokers will pay \$400 to general revenue

as a professional fee, \$40 to the Real Estate Center at Texas A & M University, \$7 to the TexasOnline Authority and \$60 towards the appropriations of the Texas Real Estate Commission for a total two-year renewal of \$507. Individuals making a two-year salesperson renewal will provide \$35 to the Real Estate Center at Texas A & M University, \$3 to the TexasOnline Authority and \$60 towards the appropriations of the Texas Real Estate Commission. As a licensing and regulatory agency, TREC must produce revenue equal to or greater than the amount it is appropriated to spend; the major source of this revenue is the \$30 per year license fee.

Effective September 1, 2002, the convenience fee currently charged for online transactions for both license renewals and original salesperson applications will be eliminated. It is anticipated that inspector license renewals will be available online by January 1, 2003, at which time inspector renewal fees will increase by \$2 per year as a subscription fee forwarded to the TexasOnline Authority.

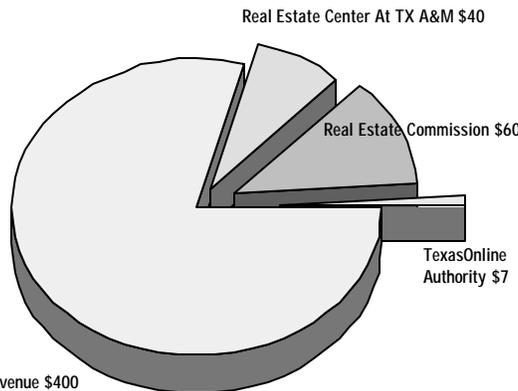
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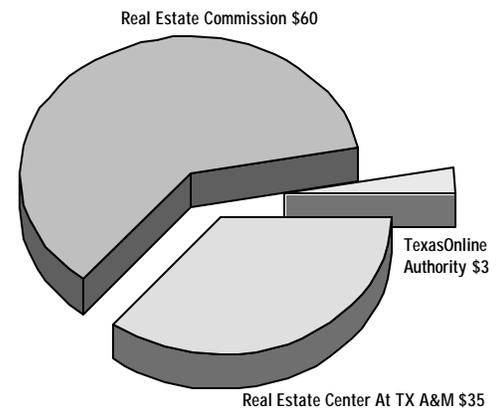
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Broker Renewal \$507
2 year renewal



Salesperson Renewal \$98
2 year renewal





TEXAS REAL ESTATE
COMMISSION

Meeting Highlights

THE MISSION of the Texas Real Estate Commission

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.

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Texas Real Estate Commission
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Wayne Thorburn

Desktop Publisher
Patricia Holder

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Texas Real Estate Commission
P.O. Box 12188
Austin, Texas 78711-2188
(512) 459-6544 or (800) 250-TREC
<http://www.trec.state.tx.us>

April 10, 2002

For the first time in several years, the Texas Real Estate Commission held a regular Commission meeting outside of Austin when it met in Fort Worth on April 10, 2002. Chairman Mike Brodie welcomed a number of area licensees to the meeting and introduced Wallace Collins, former Administrator of the agency.

After staff reports and announcements, the Commission voted to propose amendments to §535.101 and §535.210 concerning license fees; §533.38 allowing appeals from a decision of the hearings officer to default to a hearing before the Commission; §535.63 on education requirements for a license; §535.65 and §535.218 providing MCE credit for course instructors.

By a unanimous vote, Alan Waters was reappointed to approve vouchers under Government Code 2103.061 and to act as investment officer. Ron Wakefield of San Antonio was reappointed to a three year term representing TREC on the Texas Mortgage Broker Advisory Committee. Assistant Administrator Sabrina Hassumani provided a progress report on the development of the agency's Strategic Plan for 2003-2007, indicating that a final draft would be submitted prior to the June 3, 2002 Commission meeting.

A general discussion took place on the implications of opening a second TREC office and moving the Enforcement Division to a site outside the City of Austin, as required by a Rider to the 2002-03 Appropriations Act. The Commission voted to approve a report prepared by the Administrator and to seek an exemption

from the requirement to open an additional office.

Six payments from the Real Estate Recovery Fund totaling \$175,257 were approved by the Commission.

June 3, 2002

The Texas Real Estate Commission met at the agency headquarters on June 3, 2002. During staff reports it was noted that through the end of April there had been a 55.8% increase in original real estate license applications over the total for the previous year. Currently, there are more than 115,000 broker and salesperson licenses in effect.

In public comments, attorney Larry Nieman discussed the applicability of anti-terrorism topics for real estate continuing education and Ken Capelle spoke on the availability of errors and omissions insurance for real estate licensees.

Texas Insurance Commissioner Jose Montemayor addressed the Commission on a number of issues concerning the availability of homeowners insurance, changes in policy offerings and premium rates. He responded to several questions posed by Members of the Commission and indicated that the Department of Insurance would explore further any reported instances of coverage denial to homebuyers.

Representatives of several providers of online real estate courses made presentations on methods used to ensure student security. Currently, online examinations are accepted only with the presence of internal security checks to verify that the student taking the online exam is the person seeking course credit. The

Commission deferred action on any possible changes to this policy.

Amendments to §535.214 (a) concerning the necessary pass rate on inspector exams and §5353.71 (c)(8) regarding approval of MCE providers, courses, and instructors were proposed for possible future action. The Commission adopted amendments to §535.101 and §535.210 concerning fees (see article on page 1); §535.38 allowing appeals to default to a hearing before the Commission; §535.63 on education and experience requirements for a real estate license; §535.65 and §535.218 providing MCE credit for instructors of real estate and inspector courses.

Under rule review, the Commission completed its review and adopted chapters 531, 533, 534, and 537 without any amendments or modifications.

After a general discussion of various long-range policy proposals, the Commission adopted the agency's Strategic Plan for 2003-2007 (see article on page 4). A revised Notice Regarding Hazards and Repairs was adopted and is available on the TREC website.

In response to a presentation by Rene Gonzalez of Garza and Gonzalez, Certified Public Accountants, the annual internal audit plan for fiscal year 2002 was adopted. The motion for rehearing in the matter of Blake Allan Yarborough was deferred pending discussions with the Enforcement Division prior to the July 22, 2002 Commission meeting. Two payments were authorized from the Texas Real Estate Recovery Fund in the amount of \$60,000.

License Examination Services to Change Effective 9/1/02

Beginning September 1, 2002, real estate and inspector examinations in Texas will be administered by PSI Examination Services of Glendale, California, replacing Experior Assessments, the current provider. PSI Examination Services was awarded the contract for administering the Texas exams after a competitive bidding process earlier this year.

The transition to a new provider means a number of changes in the examination program. First, PSI was required to locate, equip, and staff seventeen independent testing centers in major metropolitan areas throughout the state. Two additional centers convenient to East Texas are located in Shreveport and St. Charles, Louisiana. These centers should be operational by mid-August, at which time an "open house" will be held

for area licensees, education providers, and instructors.

Over the past few months, PSI has been evaluating the current Texas test item bank, reviewing items with subject matter experts, and ensuring that the PSI national test items are consistent with Texas law, terminology and practice. This has been especially important for the inspector examinations to ensure unique items for real estate and professional inspector tests. Moreover, effective September 1st, the inspector exams will increase in time and length to 150 items to be answered within 3 hours.

Candidates for real estate and inspector examinations can register for the PSI exam by mail, telephone, or Internet beginning in August. Individuals will be taking the

test at a new location, the PSI testing center operational solely for TREC candidates.

The fee for license examinations will increase to \$59 per administration effective September 1, 2002. Finally, an advance reservation will be required and no retests will be allowed on the same day.

To ensure that licensee boards and associations as well as education providers and instructors are fully aware of these and other changes in the exam administration program, PSI Examination Services and TREC will be conducting orientation sessions on July 22nd in Austin, July 23rd in Houston and Dallas, and July 24th in Lubbock. Further details as to time and site for these orientation sessions will be available at the TREC web site www.trec.state.tx.us.



Insurance Commissioner Jose Montemayor discussed changes in homeowners policies at the June 3rd TREC meeting in Austin.

Number of Licensees Continues to Climb

The number of licensed real estate salespersons and brokers in Texas hit a five-year high this month. As of June 1, 2002, 116,053 individuals held real estate licenses in the state constituting a 4.3% increase over the total for one year earlier. The number holding inspector licenses increased even more dramatically with a 10.4% increase to 2,322 licensees as of June 1, 2002.

This growth in overall numbers is due to both a high level of license renewals as well as the number of new applicants. Currently, approximately 85% of all brokers and salespersons are renewing their licenses. Meanwhile, during the first eight months of Fiscal Year 2002, a total of 11,069 individuals made original applications for salesperson or broker licenses, an increase of 55.8% over the previous year. Although the educational requirements for broker and salesperson candidates increased on January 1, 2002, TREC has witnessed a continuing increase in the number of new applicants. All indications are that the number of real estate and inspector licensees will continue to increase over the next several months.

Commission Adopts Agency Strategic Plan for 2003-2007



Every two years, Texas state agencies are asked to review and update their five year Strategic Plan. This document serves as a roadmap for the direction in which the agency intends to proceed for the immediate future. While some of the recommendations come from staff, an effective plan must include more than this. To ensure the development of a meaningful Strategic Plan which reflects the needs and desires of licensees as well as other members of the public, the Texas Real Estate Commission undertook an active program of seeking public input. Throughout the Spring, public forums were held in Austin, Houston, Fort Worth and Lubbock where individuals could discuss proposals for changes in existing policies and procedures or advocate new programs for the agency. Comments were also solicited on the TREC web site, via

email or in other communications with the Commission. The end result of this process is a 64 page document approved by the Commission at its meeting on June 3, 2002 and submitted to state government officials on June 17, 2002.

While the Strategic Plan provides much detailed information on the agency - including organization chart, goals, performance measures, fiscal data, and a workforce plan - perhaps the most interesting section for licensees and the public comprises the strategic planning objectives for the next five years.

From the internal brainstorming sessions, the comments received from the web site, and the contributions of individuals who attended the public forums, a wide range of program challenges and opportunities was identified. The various ideas and recommendations were reviewed and analyzed, categorized as to time-frame and method of implementation, and then prioritized by the Members of the Texas Real Estate Commission.

For the five year period of 2003-2007, **human resource issues** constitute the highest priority for the agency. Retaining and recruiting qualified staff is a major concern for an agency which experienced 26.9% employee turnover in Fiscal Year 2001. Most of the competition comes not from the private sector but, rather, from other state agencies whose budgets allow them to pay higher salaries and, thereby, recruit qualified staff. For the past three fiscal years,

TREC has used every creative measure possible to recruit and retain excellent staff. It is not possible to cut any further positions without compromising customer service. It is therefore critical that TREC receive additional appropriation authority for staff salaries. Since TREC is a self-funded agency, any additional appropriation authority would be covered by agency-generated revenue.

Many of the comments received at the public forums placed a priority on **real estate education**. A fundamental review of both core and continuing education is needed over the next five years. To help prepare the appropriate blueprint for action, the Chairman of the Commission will be appointing a select task force of educators and licensees. This task force of volunteers will be asked to make specific recommendations for modifications to improve the overall quality of real estate education in Texas.

A third area to be emphasized over the next five years consists of expanding the technological advances in **licensing**. TREC was the first state agency to accept license applications and renewals over the Internet. The Commission intends to expand its online offerings to include inspector applications and renewals as well as broker applications. At the same time, the Commission will continue to explore the feasibility of an imaging system for the retention of licensee records.

In the area of **enforcement**, TREC will continue to give high priority to improving

the timeliness and consistency of the agency's complaint resolution process. A new measure will be established to ensure acknowledgment to the consumer within ten days of receiving a formal complaint involving a licensee. The agency will continue to monitor the impact of the Internet on the real estate industry and explore the need for providing additional disclosures on virtual office web sites. Formal administrative procedures will be developed to allow for more aggressive action in cases of unlicensed activity. Modifications of the Texas Timeshare Act and the Residential Service Company Act were also discussed and may be forthcoming in the next session of the Texas Legislature.

Communications with the public and licensees remains a major priority for TREC. Over the next five years, the agency will increase the availability of consumer

information as well as encourage greater licensee use of the TREC web site. The agency also plans to expand consumer education via public service announcements on television and radio. To allow for more effective response to calls from the public, TREC has enhanced its telephone answering capacity through additional equipment and staff. Greater use of email communication will be made over the coming years as a quick, efficient, and economical means of conveying needed information to our licensees.

Technology continues to be a commitment of the agency. Initiatives relating to technology modifications and upgrades are planned for the next five years to ensure that licensees have access to agency information and to enhance the productivity of staff. As much as possible, routine and repetitive tasks will be performed by technol-

ogy to allow for more emphasis on personal service and decision-making by TREC staff.

The Texas Real Estate Commission's *Strategic Plan* for 2003-2007 outlines the major programs for the agency ranging from administrative procedures to Commission-adopted Rules to proposed changes in state law. This document becomes the basis for developing the agency's *Legislative Appropriations Request* for fiscal years 2004-2005 as well as for any amendments to The Real Estate License Act, the Texas Timeshare Act, or the Residential Service Company Act which might be proposed by TREC during the upcoming legislative session. Copies of the *Strategic Plan for 2003-2007* are available on the agency web site at www.trec.state.tx.us or by writing TREC at Post Office Box 12188, Austin, TX 78711-2188.

Strategic Plan:2003-2007 Some Specific Items

- Appoint a task force to review real estate education and make recommendations to the Commission
- Conduct periodic training sessions for instructors and providers at locations around the state
- Consider mandatory apprenticeship as a prerequisite for salesperson applicants
- Upgrade education requirements for "fast track" Inspector candidates from 60 to 320 hours
- Provide more "reality-based" questions and more agency and contracts questions on license exam
- Make it easier for schools to update course content and audit schools more often to check on course delivery in the classroom
- Eliminate the \$20 broker sponsorship fee on initial sales applications and increase the overall application fee from \$50 to \$75.
- Allow out-of-state commercial brokers to actively participate in transactions within Texas
- Develop public service announcements to help educate consumers on TREC regulatory activities
- Create guidelines on virtual office web sites and require more stringent level of disclosure to consumers
- Consider amending requirements for providing the consumer information notice
- Prohibit real estate licensees from providing mortgage broker services in same transaction and explore range of mortgage broker issues
- Eliminate requirement for hanging licenses on office walls and consider using only pocket identification license
- Revise contract forms to include email addresses and possibly e-signatures
- Shorten the complaint process and respond to consumers with an acknowledgment within 10 days of filing complaint
- Review guidelines for granting or denying license when an applicant has a criminal conviction
- Emphasize formal disciplinary action rather than agreed settlements for serious violations of Act and Rules
- Update the Residential Service Company Act concerning financial reports, funded reserves, and penalties
- Update desktop technology and network server systems to ensure most appropriate equipment
- Consider 2-year licenses for inspectors and create a new commercial real estate inspector license
- Update the Texas Timeshare Act to clarify definitions and registration requirements



Disciplinary Actions

February 2002 - May 2002

Calendar of Events

Commission Meetings:

July 22, 2002
September 9, 2002
November 4, 2002
January 6, 2003

Broker-Lawyer Committee Meetings:

August 22-23, 2002

Inspector Committee Meetings:

June 21-22, 2002

Web site:

<http://www.trec.state.tx.us>

Phone

(800) 250-TREC (8732)
or
(512) 459-6544

Edwards, Keith Kamen (Spring); license# 253460

Agreed 3 month suspension of broker license fully probated for 1 year, effective February 19, 2002; while acting as a property manager, failing to forward to taxing authorities property tax payments which had been entrusted to him by a client, thereby failing within a reasonable time properly to account for or remit money coming into his possession which belonged to others, in violation of Section 15(a)(6)(E); failing to ensure that tax payments were properly made and failing to maintain adequate records to demonstrate his handling of the client's funds, thereby acting negligently or incompetently in performing an act for which a person is required to hold a real estate license, in violation of Section 15(a)(6)(W) of The Real Estate License Act

Wallace, Kent M. (Richardson); license# 430261

Agreed reprimand of broker license, entered February 5, 2002; acting negligently or incompetently by pursuing recovery of commissions by seeking mediation services, hiring a law firm to pursue debt collection, and filing a small claims suit after the broker and clients had terminated their agreement for services in 2 violations of Section 15(a)(6)(W) of The Real Estate License Act

Gallagher, Kathleen Bridget (Fort Worth); license# 458992

Agreed reprimand of broker license, entered February 4, 2002; acting negligently or incompetently by engaging in a commission dispute when there was no written agreement separate from a sales contract obligating the other party to pay, in violation of Section 15(a)(6)(W) of The Real Estate License Act

Wiggins, Lonnie L. (The Colony); license# 170329

Agreed reprimand of broker license, entered February 4, 2002; Agreed administrative penalty of \$500, entered February 4, 2002 acting negligently or incompetently by failing to ensure a person expected to conduct real estate brokerage services for him had renewed their real estate salesperson license after it expired, in violation of Section 15(a)(6)(W) of The Real Estate License Act

Sommer, Mark Allen (Dallas); license# 311240

Agreed reprimand of broker license, entered February 5, 2002; Agreed administrative penalty of \$200, entered February 5, 2002 failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Venzon, Marcia Cobb (Corpus Christi); license# 280042

Revocation of broker license, effective February 7, 2002; payment of \$50,000.00 made by the Texas Real Estate Commission from the Real Estate Recovery Fund toward satisfaction of a judgment against Marcia Cobb Venzon, in violation of Section 8(i) of The Real Estate License Act

White, Anthony Demond (Fort Worth); license# 460449

Revocation of salesperson license, effective February 8, 2002; failing

within a reasonable time to make good a check issued to the Commission and to pay the processing fee, in violation of Section 15(a)(4) of The Real Estate License Act

Cook, Walter Lee (Lancaster); license# 241590

Agreed reprimand of broker license, entered February 11, 2002; failing to provide information to the Commission in response to Commission's request for same in connection with an application for renewal of real estate broker license, in violation of 22 TAC Section 535.91 (a) of the Rules of the Texas Real Estate Commission

Sommer, Mark Allen (Dallas); license# 311240

Agreed reprimand of broker license, entered February 5, 2002; Agreed administrative penalty of \$200, entered February 5, 2002 failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Venzon, Marcia Cobb (Corpus Christi); license# 280042

Revocation of broker license, effective February 7, 2002; payment of \$50,000.00 made by the Texas Real Estate Commission from the Real Estate Recovery Fund toward satisfaction of a judgment against Marcia Cobb Venzon, in violation of Section 8(i) of The Real Estate License Act

White, Anthony Demond (Fort Worth); license# 460449

Revocation of salesperson license, effective February 8, 2002; failing within a reasonable time to make good a check issued to the Commission and to pay the processing fee, in violation of Section 15(a)(4) of The Real Estate License Act

Cook, Walter Lee (Lancaster); license# 241590

Agreed reprimand of broker license, entered February 11, 2002; failing to provide information to the Commission in response to Commission's request for same in connection with an application for renewal of real estate broker license, in violation of 22 TAC Section 535.91 (a) of the Rules of the Texas Real Estate Commission

Acuna, DiAnne (Georgetown); license# 441191

Agreed reprimand of salesperson license, entered February 28, 2002; acting negligently or incompetently by failing to ensure that all necessary steps were taken to finalize a sales contract prior to its delivery to a title company and failing to identify to the sellers that the buyer was a real estate broker, in violation of Section 15(a)(6)(W); and failing at first contact with a seller to disclose that she represented the buyer, in violation of Section 15C(a) of The Real Estate License Act

Potts, Lloyd Lewroy (Georgetown); license# 249491

Agreed reprimand of broker license, entered February 28, 2002; acting negligently or incompetently by failing to exercise adequate supervision over and directions to a salesperson he sponsors when the salesperson failed to take all necessary steps to finalize a sales contract prior to its delivery to a title company, failing to identify to the sellers

that the buyer was a real estate broker, and failed at first contact with a seller to disclose that she represented the buyer, in violation of Section 15(a)(6)(W) of The Real Estate License Act

Hatton, Bervin Mack (Dallas); license# 395664

Agreed reprimand of salesperson license, entered March 4, 2002; Agreed administrative penalty of \$200, entered March 4, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Vela, Lourdes (Eagle Pass); license# 451537

Agreed reprimand of salesperson license, entered March 4, 2002; Agreed administrative penalty of \$200, entered March 4, 2002; failing to pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Hallee, Marcella Ann (San Antonio); license# 442565

Revocation of salesperson license, effective March 7, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Summerville, Thomas Henderson (La Marque); license# 310878

Agreed reprimand of broker license, entered March 8, 2002; Agreed administrative penalty of \$200, entered March 8, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Ye, Zhen (Houston); license# 455753

Agreed reprimand of salesperson license, entered March 13, 2002; Agreed administrative penalty of \$200, entered March 13, 2002; failing to pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Brewer, William W. (Austin); license# 308020

Reprimand of broker license, entered March 15, 2002; acting negligently in failing to obtain the seller's permission before disposing of personal items in a property where he was representing the seller, in violation of Section 15(a)(6)(W) of The Real Estate License Act
**Schumacher, Randy Scott
(San Antonio); license# 298264**
Agreed reprimand of salesperson license, entered March 19, 2002; Agreed administrative penalty of \$200, entered March 19, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Turcotte, Karen L. (Boca Raton, Florida); license# 358159

Revocation of salesperson license, entered March 19, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Mayo, Kelly Thomas

(Weatherford); license# 468854
Agreed reprimand of salesperson license, entered March 21, 2002; Agreed administrative penalty of \$250, entered March 21, 2002; licensee placed his interest above the interest of his principal by refusing to sign a release of earnest money form and insisting on payment of a commission although there was no written agreement obligating his principal to do so, in violation of 22 TAC Section 535.156(b) and cause for disciplinary action under Section 15B(b) of The Real Estate License Act

Craycroft, Richard Harris (Austin); license# 5069
Reprimand of professional inspector license, entered March 25, 2002; negligently inspecting a roof by failing to observe and note missing and loose screw fasteners and missing or improperly installed flashing and instead reporting the roof in good condition, in violation of Section 23(l)(3) of The Real Estate License Act

Reid, Steven Kelly (Plano); license# 4625
Agreed reprimand of professional inspector license, entered March 28, 2002; acting negligently or incompetently by failing to report as in need of repair conditions or symptoms that may indicate the possibility of water penetration, in violation of Section 23(l)(3) of The Real Estate License Act

Lane, Laura K. (Houston); license# 435975
Revocation of salesperson license, effective April 4, 2002; failing to provide information to the Commission in response to Commission's request for same in connection with an application for renewal of a real estate salesperson license, in violation of 22 TAC Section 535.91(a) of the Rules of the Texas Real Estate Commission

Vauthier, Elaine Virginia (Houston); license# 359305
Revocation of salesperson license, effective April 5, 2002; failing to provide information to the Commission in response to Commission's request for same in connection with an application for renewal of real estate salesperson license, in violation of 22 TAC Section 535.91(a) of the Rules of the Texas Real Estate Commission

Iwamoto, Takuya (Houston); license# 400015
Revocation of salesperson license, effective April 8, 2002; failing to provide information to the Commission in response to Commission's request for same in connection with an application for renewal of real estate salesperson license, in violation of 22 TAC Section 535.91(a) of the Rules of the Texas Real Estate Commission

Zolfaghari, Hossein Gholi (Houston); license# 336693
Agreed reprimand of broker license, entered April 8, 2002; Agreed administrative penalty of \$200, entered April 8, 2002; failing to pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Minchen, Kelly Lynn (Sugar Land); license# 422977
Agreed reprimand of salesperson license, entered April 10, 2002; Agreed administrative penalty of \$200, entered April 10, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day

period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Kukis, Gary Allen (Humble); license# 362959
Revocation of salesperson license, effective April 11, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Kidd, Kelvin Ricardo (Dallas); license# 457960
Agreed 3 month suspension of salesperson license fully probated until completion of payments under a Bankruptcy plan, effective April 26, 2002; commingling and failing to properly account for a security deposit belonging to another person in violation of 22 TAC 535.146 of the Rules of the Texas Real Estate Commission

Burnett, Leta Dee (Dallas); license# 418168
Agreed 6 month suspension of salesperson license, fully probated for one year, effective May 1, 2002; acting negligently and incompetently when taking a listing agreement and negotiating a sales contract that provided that the seller had fee simple title to the property when the seller's interest in the property was that of a buyer under a Contract for Deed and failing to obtain the record title holder's consent to a transfer of the seller's interest, in violation of Section 15(a)(6) (W) of The Real Estate License Act; and not conveying accurate information to the record title holder of real property by failing to disclose a listing agreement and subsequent sale, in violation of 22 TAC Section 535.156 of the Rules of the Texas Real Estate Commission

Rios, Eduardo (Houston); license# 399128
Agreed reprimand of broker license, entered May 3, 2002; Agreed administrative penalty of \$200.00, entered May 3, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Junaid, Michael I. (Houston); license# 412829
Agreed reprimand of broker license, entered May 3, 2002; Agreed administrative penalty of \$500, entered May 3, 2002; acting negligently or incompetently in failing to provide receipts for repairs made to a property, in violation of Section 15(a)(6)(W); threatening to file a lien for unpaid expenses although no documentation was provided to substantiate expenses in violation of 22 TAC Section 535.156 (b) of the Rules of the Texas Real Estate Commission; failing or refusing on demand to produce documents for inspection by the Commission's investigator, in violation of Section 15(a)(7); failing or refusing on demand to provide information requested by the Commission's investigator, in violation of Section 15(a)(8) of The Real Estate License Act

Piland, Sharon Lynn (Dallas); license# 423409
Revocation of salesperson license, entered May 3, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of

the Texas Real Estate Commission

Minchen, Kelly Lynn (Houston); license# 422977
Revocation of salesperson license, entered May 13, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Hendrix, Johnny Lynn (Houston); license# 242720
Agreed reprimand of broker license, entered May 17, 2002; Agreed administrative penalty of \$200, entered May 17, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Hancock, Camon Eric (Coppell); license# 440632
Agreed reprimand of broker license, entered May 22, 2002; failing to provide information to the Commission in response to Commission's request for same in connection with an application for renewal of real estate broker license, in violation of 22 TAC Section 535.91(a) of the Rules of the Texas Real Estate Commission

Williams, Arthur (Houston); license# 413401
Revocation of broker license, effective May 23, 2002; payment of \$11,380.39 made by the Texas Real Estate Commission from the Real Estate Recovery Fund toward satisfaction of a judgment against Arthur Williams, in violation of Section 8(i) of The Real Estate License Act

Birdy, David Lee (San Antonio); license# 425789
Agreed 2 year suspension of salesperson license, effective May 31, 2002, probated for remaining 18 months, effective November 30, 2002; misappropriating funds in property management account, failing to withdraw commissions earned from account and failing to correctly name the account, in violation of Section 15(a)(6)(E), Section 15(a)(6)(V) and Section 15(a)(6)(W) of The Real Estate License Act

Birdy, Barry Lee (San Antonio); license# 297924
Agreed fully probated 2 year suspension of broker license, effective May 31, 2002; failing to supervise a salesperson doing property management in that the salesperson misappropriated funds and failed to withdraw commissions earned and failed to correctly name the account, in violation of Section 15(a)(6)(W) of The Real Estate License Act

Conner, Steve Charles (Carrollton); license# 330171
Agreed 1 month suspension of salesperson license, fully probated for one year, effective May 31, 2002; acting negligently or incompetently and making unjustified threats of legal proceedings by representing himself to others as a buyer's agent at a time when there was no buyer representation agreement, altering a Buyer Representation Agreement without the buyer's authority or knowledge, and threatening legal action to enforce a buyer's representation agreement at a time when there was no such agreement, in violation of Sections 15(a)(6)(R) and 15(a)(6)(W) of The Real Estate License Act

Got A Question About A Relocation Company?

Through a link maintained on the TREC web site, licensees may directly access The Real Estate Coalition for Cooperative Business Practices (the Coalition) of the Employee Relocation Council by clicking on "The Interchange" on the Coalition's website at

<http://coalition.erc.org>

Licensees may raise concerns about their dealings with a relocation company and send a message to the appropriate company for response.

**Renew your broker
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www.trec.state.tx.us

AS A SERVICE to our licensed subscription holders, we have included your license expiration date in the upper right hand corner of the mailing label.

Name	Lic. Exp. Date
Company	
Street	
City, State	

Referrals and Rebates What is Permissible and Other Questions

- Q. Can a licensee pay a non-licensee cash money for a referral?
- A. No. A licensee cannot pay a non-licensee cash money, or its equivalent, for a referral. If a licensee wants to give a small token of appreciation to a non-licensed person for a referral from the non-licensed person, the licensee may give a gift or merchandise valued at \$50 or less to the non-licensee.
- If gift certificates are given, they cannot be redeemed for cash, i.e., a recipient redeeming a gift certificate at a department store cannot receive cash back from a purchase amount that is less than the amount of the gift certificate.
- Q. Can a licensee receive a fee, rebate or commission from an unlicensed third party who sells a service to a party to the transaction, and, the party to whom the service is sold is not a client the licensee?
- A. Yes, but only if the licensee obtains the consent of the person who purchases the service. For example, if ABC Fencing Company wants to give Joe Licensee a fee for sending it business, Joe must first obtain the consent of the person he sends to ABC Fencing.

third party who sells a service to a party to the transaction, and, the licensee represents a party involved in the transaction?

- A. Yes, but only if the licensee obtains the consent of the person he represents.
- Q. When is it permissible to give a rebate to a principal, and can I advertise that I will give rebates? If so, what are the parameters?
- A. It is permissible for a licensee to give a rebate to a principal in any real estate transaction as long as the licensee obtains the consent of the person the licensee represents. The law does not limit the amount of a rebate that may be paid to any party.

Note: Salespersons must have the consent of their sponsoring broker before paying a rebate.

Advertising Rebates: Advertising rebates is permissible under the law. The advertisement must state that the rebate is subject to the consent of the person the licensee represents. If the rebate is contingent upon a person using the services of a specific provider, the advertisement must disclose that the rebate is subject to restrictions. Keep in mind, however, that other general rules regarding advertising apply.

- Q. Can a licensee receive a fee, rebate or commission from an unlicensed

Q. What are Loan Fees for a VA or FHA loan as used in the TREC Third Party Financing Addendum?

- A. Loan fees are defined in paragraph 12.A(2) of the new contract forms as loan origination, discount, buy-down, and commitment fees only.

Q. What amount should be used in Paragraph 12.A(3) of the newly promulgated contract forms?

- A. Paragraph 12.A(3) sets out how much Seller will contribute to Buyer's closing costs. The blank is used to set the amount of costs charged to the Seller toward Buyer's expenses.

The Broker Lawyer Committee seeks comment from interested persons regarding the following discussion draft contracts: New Home Complete, New Home Incomplete, Unimproved, and Farm and Ranch. The current drafts will be available for input until August 1, 2002. The Broker Lawyer Committee will be meeting in Austin on August 21-22, 2002, to review comments on the drafts. If the drafts are proposed to the Commission later this fall for adoption by rule, there will be another opportunity for comment at that time. You may send your comments or suggestions by e-mail to draft-contracts@trec.state.tx.us, or by regular mail to TREC Broker Lawyer Committee, TREC General Counsel, P.O. Box 12188, Austin, TX 78711-2188.