



TRECAAdvisor

Texas Real Estate Commission ★ Volume 14, Number 2 ★ June 2003



Legislature Enacts License Law Changes, Reduces Agency Appropriations for FY04-05

The 78th Regular Session of the Texas Legislature concluded on June 2, 2003 having achieved a balanced budget without imposing any general tax increases. A number of new laws were enacted which will impact the real estate industry and a more complete review will be available in the August 2003 issue of TRECAdvisor.

HB 1508, sponsored by Rep. Kino Flores, passed the Legislature and was signed into law by Governor Perry. Referred to as the TREC housekeeping bill, it amends chapters 1101 and 1102 of the Occupations Code and takes effect on September 1, 2003. Among the various amendments to the Real Estate License Act, the bill

- simplifies the salesperson original application process and provides that there is no additional fee for a salesperson's initial move from inactive status to active sponsorship by a broker. TREC is authorized to increase the fee for an original salesperson application up to \$75, an action that would require rule-making by the Commission.
- removed the requirement that all salesperson and broker licenses must be posted at a broker's place of business - unless the broker is a residential rental locator.
- requires that a client or customer must be provided with "Information About Brokerage Services" at the first "substantive dialogue" about a specific property, rather than at the first face-to-face meeting.
- gives TREC the ability to require that consumer notices about the process for filing complaints with the agency and informing individuals about the Real Estate Recovery Fund be posted on a licensee's web site. Any such additional requirement, however, would need rule-making by the Commission.
- creates a new core and continuing education instructor application fee of up to \$40 for a five-year certification, with the actual amount to be set by the Commission. Presently approved instructors are "grandfathered" until the expiration of their current five-year certification.
- allows an increase to \$20 in the fee for requesting a license history from TREC.
- establishes that the location for all non-substantive hearings involving licensees (such as failure to provide information, returned checks, etc.) will be Austin. This does not affect any hearings involving allegations of violations of the substantive provisions of the Real Estate License Act or other provisions of the Occupations Code.

Changes impacting real estate inspectors include the addition of "honesty, integrity and trustworthiness" as factors to be considered prior to issuing a license. The Commission is

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TEXAS REAL ESTATE
COMMISSION

Meeting Highlights

April 28, 2003

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.

Official publication of the
Texas Real Estate Commission

Volume 14, Number 2
June 2003

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Governor

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TREC Administrator
Wayne Thorburn

Desktop Publisher
Patricia Holder

The Texas Real Estate Commission held a regularly-scheduled meeting at the TREC headquarters in Austin on Monday, April 28, 2003.

Staff reports were presented concerning the number of current licensees, enforcement complaints and activity on the web site.

The Commission adopted an amendment to §535.2, concerning Broker's Responsibility. The amendment effectively repealed subsection (d) of §535.2 to delete a provision that attempted to clarify the minimum level of service that a consumer might expect to receive from a Texas real estate licensee who represents the consumer as an agent in a real estate transaction. Questions were raised after the former rule was adopted regarding whether the provision, among other things, prohibited fee-for-service listing agreements or whether the minimum standards could be waived by the client. The purpose of the former rule was to ensure that consumers were fully informed about the level of service they could expect from a licensed broker acting as their agent in a real estate transaction. Given the widespread interest expressed in the former rule after its final adoption, however, the Commission adopted the repeal of the subsection for further study of the issue.

The Commission adopted amendments to §535.71, concerning Mandatory Continuing Education: Approval of Providers, Courses and Instructors. The amendment to §535.71 permits guest speakers to make a presentation for up to three hours in any TREC-approved MCE course (within certain parameters).

The Commission adopted amendments to §535.403, concerning Renewal of Registration of easement or right-of-way agents. The amendments to §535.403 were proposed in connection with the passage of S.B. 645 and S.B. 187 by the 77th Legislature (2001), requiring TREC to participate in an electronic system using the Internet for licensing. Section 535.403 was amended to reflect the annual fees that would be effective for easement and right-of-way agents registration renewals for registrations expiring on or after August 31, 2003, and included an additional \$3 to cover the costs of the subscription fees associated with on-line transactions.

The Commission proposed the review of Chapter 541, concerning Rules Relating to the Provisions of Texas Civil Statutes, Article 6252-13c and Chapter 535, concerning Provisions of the Real Estate License Act (§§535.1-.81). Review of the rules under these chapters will determine whether the reasons for adoption of the rules continues to exist.

Mr. Thorburn reported on the various bills of interest to TREC (See page 1).

Jack Harris with the Real Estate Center at Texas A&M University presented a report on a licensee survey conducted by the Center. Gary Maler, Associate Director of the Real Estate Center at Texas A&M, presented a report on the Education Task Force licensee survey.

The Commission appointed three new members to the Texas Real Estate Commission Inspector Committee. (See *Commission appoints Three New Members...*, below)

The Commission voted to pay two Recovery Fund claims, one for \$4,710 and another for \$3,300.

A motion for probation in the Matter of David Michael Rudd, Hearing No. 02-170-012209 was granted.

Commission Appoints Three New Members to the Texas Real Estate Inspector Committee

Three new members were appointed to the Texas Real Estate Inspector Committee at the Texas Real Estate Commission meeting on April 28, 2003. The new members are Vernon Davis-Waco, Brian Murphy-Arlington, and Billy Meyerdirk-Austin. Each member will serve a six-year term that will expire February 1, 2009.

Mr. Davis is a Professional Real Estate Inspector and Real Estate Broker. He is the regional director of the Exterior Design Institute and holds a position as Vice President of the Lone Star Chapter of ASHI (American Society of Home Inspectors). Mr. Davis is also licensed by the Structural Pest Control Board and as an insurance adjuster through the Texas Department of Insurance.

Mr. Murphy has been an inspector for eight years and serves on the board of the Texas Association of Real Estate Inspectors (TAREI). He also holds a license from the Structural Pest Control Board and is Vice President -Government & Regulatory Affairs of the Texas Association of Real Estate Inspectors.

Mr. Meyerdirk has been in the home inspection business for over ten years. He holds licenses from the Structural Pest Control Board and the Environmental Assessment Association. He is also certified as an instructor for core and continuing education classes for inspectors and real estate agents through TREC.

The TRECAdvisor (ISSN 1047-4579) is published by the Texas Real Estate Commission (TREC) as an educational service to licensees in the state of Texas. The purpose of the newsletter is to promote a better understanding of the Real Estate License Act and to inform all licensees of changes affecting laws and practices in the real estate industry. The TRECAdvisor is funded through legislative appropriations and subscriptions collected from TREC licensees. The official text of TREC rules is filed with the Office of the Secretary of State, Texas Register. TREC encourages reproduction of this newsletter with the appropriate acknowledgments. Subscriptions are available for \$4.00 for two years. Single issues are \$1.00. To order a subscription or a single issue write to TRECAdvisor, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188. For information regarding TREC, contact:

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>

Enforcement Questions and Answers

(these and other questions and answers may be found on TREC's web site at http://www.trec.state.tx.us/questions/faq-enf_recent.asp)

Q. I do not have a real estate license. Can I charge a locating fee to property owners for locating a person to rent their property?

A. No, you must have a real estate license to assist another person when renting or leasing out their property. However, the law allows an owner's employees to assist in the renting or leasing of the owner's own property. Otherwise, you must first obtain a license and be sponsored by, and working under, a real estate broker. All fees for real estate services must go through your sponsoring broker.

Q. I currently hold a real estate salesperson license. I want to begin investing in real estate property for myself. I am thinking of advertising that I will purchase property. Should I disclose in the ad that I am a licensee?

A. While the law does not require that you disclose the fact that you are licensed in an advertisement, a licensee must disclose in writing, either in the sales contract or some other writing given prior to entering into the contract, that they are acting in their own behalf. The law also requires licensees, when selling or buying real estate in their own name, to not engage in misrepresentation or dishonest or fraudulent action. Additionally, a licensee should not use his expertise to the disadvantage of the other party. Generally, if a licensee discloses in an advertisement to purchase property that he is an agent, that disclosure would not take the place of this requirement unless the advertisement was given to the other party.

Q. I am not a licensed real estate salesperson. I have been locating investment properties for individual real estate investors, and they have been paying me a finder's fee. I am not acting as an agent or broker, I only find property for buyers to invest in.. Someone told me this was not legal in Texas. Is it?

A. No, it is not legal. Locating real estate or potential buyers of real estate for another person in exchange for a finder's fee or other consideration would require a real estate license. The law states that a person who does any of the following, for another person and for valuable consideration, must be licensed as a real estate broker or salesperson: - Aids, attempts, or offers to aid in locating or obtaining for purchase, rent, or lease any real estate; - Procures or assists in the procuring of prospects or properties for the purpose of effecting the sale, exchange, lease or rental of real estate. The Commission investigates complaints of non-licensed activity. [Complaint forms](#) are available on our website.

Q. My license is currently on inactive status. I referred a seller to a fellow agent. May I collect a referral fee?

A. No, a license must be active when the referral is made not when the referral is paid.

Q. Must a salesperson submit a letter in writing to resign his/her position with a broker?

A. Pursuant to the requirements of Commission Rule 535.121(b), if the sponsorship ends because the salesperson has left the sponsorship of the sponsoring broker, the salesperson shall immediately notify the sponsoring broker in writing.

Q. I am a broker, and I have been showing a customer properties for several months and would like to charge a "service fee" in case the customer does not offer a contract for property while working with me. Is this possible?

A. Under the provisions of Section 20(b) of the Real Estate License Act, an agreement for compensation between broker and principal must be in writing and signed by the principal to be enforceable.

At this late date, while you can ask the potential buyer for compensation and even present him or her with a written agreement for compensation and request that it be signed, absent the buyer voluntarily paying the fee or signing the agreement, you cannot collect a service fee.

Q. May I pay a commission to a former salesperson if he has since left my brokerage and has allowed his license to expire?

A. You may pay a commission to the salesperson whose license has expired IF the agent had an active license and was under your sponsorship at the time the commission was earned.

See Section 1(d) of the Real Estate License Act. TREC considers the commission to have been earned once the parties to the transaction have executed the contract of sale or lease. The fact that the transaction may have closed after the agent's license expired would not prohibit you from paying a commission to the agent.

Q. Our newspaper gives discounted rates to advertisers who are selling their own personal property. Agents are obtaining this discounted rate by putting Owner/Agent in their ads even though they do not own the property. This is deceptive to potential home buyers as well as to the newspaper. What can be done?

A. It is misleading advertising in violation of Section 15(a)(6)(P) of the Real Estate License Act for a licensee to falsely identify himself or herself in an advertisement as the owner of the property. If you have specific information that a licensee has done this, you may file a complaint. [Complaint forms](#) are available on our website.

Q. If an agent truly does own property and wants to place a newspaper ad, is "Owner/Agent" required to be in the ad?

A. This disclosure is not required to be in advertisements. However, Section 535.144 of the Commission's Rules states, "A

(Continued on page 10)

Education Task Force Publishes Survey Results.....

The Education Task Force of the Texas Real Estate Commission was appointed in September of 2002 by Commission Chairman, C. Michael Brodie. The assignment was to look at the present structure of Mandatory Continuing Education (MCE) for real estate licensees in Texas, analyze its effectiveness and make any necessary recommendations for improvements.

An MCE survey was developed and distributed to licensees via mail and the internet. The results of the survey were compiled by the Real Estate Center at Texas A&M University. Approximately 2871 surveys were recorded and analyzed. Results follow:

- **Characteristics of those responding:**

Approximately 42% were licensed as brokers, and 58% were salespersons. About 34% had held their license 5 years or less, while 17% had been licensed for 6-10 years, 11% for 11-15 years, and 13% for 16-20 and 21-25 years respectively, and a little over 12% had been licensed more than 26 years.

More than 53% held at least a bachelor's degree (38% bachelor's degree, 13% master's degree and 2.5% doctorate or other advanced degree). Another 11% had an associate's degree, with an additional 32% reporting some college. Only a little over 4% reported having only a high school diploma.

47% reported working more than an average of 40 hours per week in real estate, with an additional 21% reporting 30-40 hours per week. 11% reported working 20-30 hours per week and a little over 21% indicated they worked 0-20 hours per week. This indicates that about 68% of those responding are full-time real estate professionals.

Almost 74% of the respondents described the location of their real estate practice as in or near one of the five largest metro areas of the state. The remainder of the licensees (scattered in small clusters across a wide geographical area) were distributed in ranges from 1% to about 4% of respondents across the smaller metro areas and rural areas of north, east, west, south and central Texas.

Most licensees responding appear to split their time between real estate specialties. Those reporting 100% of their time spent in only one area were as follows: office sales, leasing or property management 12%, retail sales, leasing or property management 5%, industrial sales, leasing or property management a little over 2%, single family residential sales nearly 41%, residential property management almost 6%, farm, ranch or raw land sales nearly 4%, real estate related 10% , and non-real estate related 5%.

- **Characteristics of MCE Taken:**

At their last license renewal, the vast majority of respondents, approximately 70%, took all 15 hours of MCE as part of one class. About 16% took two or more classes of 5 hours each and almost 14% took several classes of 1 to 3 hours in duration.

At their last renewal, over 73% indicated they took all their MCE in a traditional classroom setting. About 10% took MCE online or via CD, 11% by correspondence, and about 6% utilized a combination of two or more of the above sources of education.

Overall satisfaction levels with MCE confirm past Real Estate Center focus group observations...MCE is "OK" or mediocre, but not great. 44% reported being somewhat satisfied with MCE. A little over 29% were completely satisfied. 11% were completely dissatisfied while nearly another 16% were somewhat dissatisfied.

Junior or community colleges were the number one source for the majority of the respondents continuing education with a little over 38% market share. Trade associations and/or Boards of Realtors were a close second with almost 35%. Independent sponsors accounted for about 7% with proprietary schools providing 10% and universities providing almost 10% as well.

- **Future Observations:**

Looking to the future, 60% of respondents indicated they would like to see courses acceptable for MCE credit be expanded to include business practices, application of technology and other subjects beyond what is traditionally considered purely real estate subjects. 40% think future MCE should be limited to law, ethics, agency, contract and what is considered purely real estate subjects.

Looking to future preferred methods of receiving MCE, nearly 57% of respondents indicated they would opt for traditional live classroom instruction. 33% indicated they would choose online courses. Video and correspondence accounted for almost 3% and 8% respectively of future MCE delivery choices. This implies the greatest potential for growth will occur in alternative delivery methods especially online, at the expense of traditional classroom instruction. Like all future action-oriented queries, intentions versus actual fulfillments have to be considered in future planning and implementation.

- **Attitudes Toward and Effectiveness of MCE:**

About 75% agreed somewhat to completely that overall the content of MCE was current.

VIEWES OF MCE	
Completely satisfied	29%
Somewhat Satisfied	44%
	73%
Somewhat dissatisfied	16%
Completely dissatisfied	11%
	27%

(Continued from page 4-Education Task Force Survey Results)

Only 9% disagreed somewhat to completely with 23% having no strong opinions either way. 47% agreed somewhat to strongly that there were too few offerings relevant to their real estate specialty. Wide variances by real estate specialty are possible in the evaluation of this aspect of MCE. As to level of difficulty, 38% agreed somewhat to completely that MCE was too elementary, with the largest single percentage, 31% neither agreeing nor disagreeing.

45% disagreed somewhat to completely that the current requirement of 15 hours of MCE was too great. 27% were basically ambivalent, while 28% agreed somewhat to completely 15 hours was too great. 64% disagreed somewhat to completely that more MCE hours should be required. Only about 19% agreed somewhat to completely that more hours should be required for license renewal.

67% agreed somewhat to completely that convenience was the most important criterion in their selection of classes. Only about 16% disagreed somewhat to completely that convenience was most important. 76% agreed somewhat to completely that quality was their most important criterion in selecting MCE classes. Only 7% disagreed somewhat to completely that quality was most important.

About 27% agreed somewhat to completely that they procrastinate and take whatever class is available, however about 50% disagreed somewhat to completely that they procrastinated. A significant 24% did not express an opinion one-way or the other. About 36% agreed somewhat to completely that MCE had benefited their business greatly, while about 34% disagreed somewhat to completely. A significant 31% had no strong opinion one-way or the other.

As to achieving the purpose of raising the competency of licensees, about 50% agreed somewhat to completely that MCE had achieved that goal. 28% disagreed somewhat to completely that MCE had raised licensee competency. 46% viewed MCE as a regulatory hurdle and wanted to complete it as quickly and easily as possible. Almost 31% disagreed somewhat to completely with that view. 51% agreed somewhat to completely that MCE had improved the quality of service they provided to customers, while 26% disagreed somewhat to completely.

- **Specific Evaluations of MCE:**

83% agreed somewhat to completely that the knowledge or skills of instructors in MCE classes was generally high. 79% agreed somewhat to completely that the times classes were offered was convenient. 72% agreed somewhat to completely that classroom facilities were high quality. 59% agreed somewhat to completely that the opportunity to meet others and build business networks was valuable, while 24% were neutral on the value of networking. 71% agreed somewhat to completely that course materials or handouts were useful. 75% agreed that the location of the classes taken was convenient.

SUMMARY

There is room for improvement in mandatory education required for renewal of a Texas real estate license. If respondents are representative of the total licensee population, MCE is viewed as mediocre to good, not great. A vast majority of licensees want to see future topics approved for MCE expanded to include business practices, utilization of technology and other topics that will help them in their businesses. A strong minority favors continued emphasis on legal, ethical and other legal/rule updates. To address this, one possible future model is the combination of a rigorous and consistent block of required, law-oriented courses with a broad selection of elective courses. This could achieve the dual objectives of allowing licensees to become or remain current with legal/ethical issues, while meeting their personal growth needs through elective educational courses. Written survey comments as well as interviews with educators and industry leaders emphasize the need to institute measures to assure consistency of instruction in required legal/ethical update courses. Suggestions include the adoption of detailed and standardized course outlines to assure greater consistency of instruction in these critical areas of compliance. With the surprisingly large proportion of licensees conducting commercial-oriented brokerage business, one would have to be sensitive to their needs and not promulgate a standardized outline that would be germane to residential practitioners but totally inappropriate to commercial, farm and ranch or other specialties.

Texas real estate licensees are typically middle-aged, highly educated with the majority having at least a bachelor's degree. For the vast majority, real estate is a second or third career, not their first career upon completing college. And not surprisingly, distribution of licensees mirrors that of the state's population with the overwhelming majority living and working in or near the State's largest metro areas. These demographic and geographic characteristics influence the design, delivery, instructional methods, effectiveness and appropriateness of educational programming now and in the future.

If licensee intentions are fulfilled, a growing number will complete their future MCE classes online. Consideration needs to be given to how end-users, providers of the classes and the Texas Real Estate Commission will access, approve, deliver, verify, evaluate and regulate courses offered via this quickly expanding medium of delivery.

TREC Email Notification List

The TREC Email Notification List enables subscribers to receive automated notification of new and changing information from the Texas Real Estate Commission (TREC).

Typical items that will be posted include TREC Commission meeting agendas, notification of public meetings, proposed rule changes, new rules and new forms.

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Disciplinary Actions

March 2003– April 2003

Settle, Gladys Lynne Swofford
(Austin); license# 335424

Agreed reprimand of broker license, entered March 10, 2003; Agreed administrative penalty of \$250, entered March 10, 2003; failing to complete mandatory continuing education hours and pay the \$250 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Linton, Darius Joseph
(Beaumont); license# 460197

Agreed reprimand of salesperson license, entered March 11, 2003; Agreed administrative penalty of \$250, entered March 11, 2003; failing to complete mandatory continuing education hours and pay the \$250 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Anzilotti, Kelly Kathleen
(Houston); license# 343017

Agreed reprimand of salesperson license, entered March 11, 2003; Agreed administrative penalty of \$250, entered March 11, 2003; failing to complete mandatory continuing education hours and pay the \$250 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Myer, Jerry Ray
(Lubbock); license# 422105

Suspension of broker license, entered March 13, 2003 non-payment of child support; license suspended as ordered by the Office of the Attorney General

Nguyen, Duc Minh
(Dallas); license# 416861

Reprimand of salesperson license, entered March 19, 2003; acted negligently or incompetently when he failed to confirm his authority to act under a formal representation agreement and failed to keep the buyers informed of the course of negotiations taken on their behalf, in violation of Section 15(a)(6)(W); placed his interests above those of his principal in the matter of a sales commission in which he would share which constituted dishonest dealings, bad faith or untrustworthiness, in violation of Section 15(a)(6)(V) of The Real Estate License Act; failed to uphold his fiduciary obligations to the buyers while representing them, in violation of 22 TAC Section 535.156 of the Rules of the Texas Real Estate Commission

Genuardi, Anna Mae
(Pflugerville); license# 207187

Agreed 30-day suspension of salesperson license fully probated for 6 months, effective March 24, 2003; Agreed administrative penalty of \$500, entered March 24, 2003; failing to make clear to all parties to a transaction which party she represented, in violation of Section 15(a)(6)(D) of the Real Estate License Act; failing to fill in the effective date of a sale contract, incorrectly identifying in the contract certain cash funds of the buyer as the amount of financing, failing to include a closing date in the contract, and failing to see that the buyer's funds were deposited into a trust or escrow account or in trust with a title company, all in violation of Section 15(a)(6)(W) of The Real Estate License Act; failing to see that the parties used the correct Commission-promulgated temporary lease form, in violation of 22 TAC Section 537.11(b) of the Rules of the Texas Real Estate Commission; failing to include in a listing agreement a definite termination date, in violation of Section 15(a)(6)(G) of the Real Estate License Act

Eiland, Randolph Howard
(El Paso); license# 190011

Agreed reprimand of broker license, entered April 2, 2003; Agreed administrative penalty of \$250, entered April 2, 2003; failing to complete mandatory continuing education hours and pay the \$250 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Logan, Ronald A.
(Houston); license# 304529

Agreed reprimand of broker license, entered April 4, 2003; Agreed administrative penalty of \$250, entered April 4, 2003; failing to complete mandatory continuing education hours and pay the \$250 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Nadolney, Frank Edward
(Houston); license# 105216

Agreed reprimand of broker license, entered April 8, 2003; Agreed administrative penalty of \$1,000 entered April 8, 2003; failing to perform an appraisal in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) and failing to adequately supervise and review the work of a subordinate appraiser, in violation of Section 535.17(c) of the Rules of the Texas Real Estate Commission and Section 15(a)(6)(W) of the Real Estate License Act

Eckhardt, Margaret D.
(Houston); license# 458553

Revocation of salesperson license, effective April 10, 2003; removing a bottle of prescription medication from a property, without the knowledge or consent of the owners of the property, while showing the property to potential buyers, in violation of Section 15(a)(6)(V) of the Real Estate License Act; misrepresenting to the owners that she was not the one who had removed the bottle of medication, in violation of Section 15(a)(6)(A) of the Real Estate License Act

Romero, Luther Allen, Jr.
(Houston); license# 460197

Agreed reprimand of broker license, entered April 11, 2003; Agreed administrative penalty of \$250,

Calendar of Events

Commission Meetings:

July 14, 2003
September 15, 2003

Broker-Lawyer Committee Meetings:

July 17-18, 2003

Inspector Committee Meetings:

June 27, 2003

Web site:

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

Phone

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

entered April 11, 2003; failing to complete mandatory continuing education hours and pay the \$250 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Garcia, Laura Luz
(Houston); license# 394672

Agreed reprimand of salesperson license, entered April 11, 2003; Agreed administrative penalty of \$500, entered April 11, 2003; obtaining down payment money from a client and failing to respond to the client's contacts seeking return of the money, in violation of Section 15(a)(6)(W) of the Real Estate License Act; failing to deposit the down payment money in trust with a title company or in a custodial, trust, or escrow account maintained for that purpose in a banking institution authorized to do business in this state, in violation of Section 15(a)(6)(Y) of the Real Estate License Act

McDaniel, Charles Cordnel
(Dallas); license# 489307

Suspension of salesperson license, entered April 14, 2003; non-payment of child support; license suspended as ordered by the Office of the Attorney General

Rios, Eduardo
(Houston); license# 399128

Agreed 30-day suspension of broker license fully probated for one year; effective April 15, 2003; Agreed administrative penalty of \$1,000; entered April 15, 2003; failing to adequately supervise salespersons under his sponsorship to see that property defects of which his brokerage business had been advised were disclosed to the buyer of the property, in violation of Section 15(a)(6)(W) of the Real Estate License Act

Granade, Kelly Sue
(Austin); license# 462116

Agreed reprimand of salesperson license, entered April 18, 2003; Agreed administrative penalty of \$250, entered April 18, 2003; 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

Banks, Halbert Jay
(Austin); license# 348207

Revocation of salesperson license, effective April 22, 2003; failing within a reasonable time 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

Tarby, Mary Ann
(Austin); license# 333207

Revocation of salesperson license, effective April 22, 2003; failing within a reasonable time 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

Davis, Joe Harley, Jr.
(Round Rock); license# 295892

Agreed reprimand of salesperson license, entered April 22, 2003; Agreed administrative penalty of \$250, entered April 22, 2003; failing within a reasonable time 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

Pitzer, Leslie Machelie
(Dallas); license# 390561

Agreed reprimand of broker license, entered April 24, 2003; as the designated officer of a corporation, she placed advertisements that did not readily identify the advertiser as a real estate licensee, in violation of Section 15(a)(6)(W) of the Real Estate License Act

Apartment Avenue USA, Inc.
(Dallas); license# 427290

Agreed administrative penalty of \$500, entered April 24, 2003; placed advertisements that did not readily identify itself as a real estate licensee, in violation of 22 TAC Section 535.154(d)

Melendez, Ester Maritza
(Carrollton); license# 424458

Agreed 2 year suspension of salesperson license fully probated for 6 months, effective April 25, 2003; Agreed administrative penalty of \$1,500 entered April 25, 2003; acted negligently and incompetently by interpreting the sales contract and other related written documents and receiving the inspection report for her client, the buyer, who did not understand all the provisions of each document nor the findings of the inspection report, in violation of Section 15(a)(6)(W); and acted negligently and established an association with an unlicensed person who performed real estate services by directing her loan assistant to prepare an offer for real property for her client, the buyer, and knowing, or should have known, that her loan assistant further negotiated the final executed contract, in violation of Section 15(a)(6)(W) and Section 15(a)(6)(S) of the Real Estate License Act

Taylor, John Edward
(Houston); license# 342814

Revocation of salesperson license, effective April 25, 2003; 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

Mays, Steven Paul
(Irving); license# 429313

Revocation of broker license, effective April 25, 2003; failing to complete mandatory continuing



You must still renew
your license even if you
choose to be inactive.

(Continued from page 7-Disciplinary Actions)

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

**May, Sondra
(Winona); license# 250484**

Revocation of salesperson license, effective April 29, 2003; failing within a reasonable time 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

**Thomas, Judith Elaine
(Houston); license# 403511**

Revocation of salesperson license, effective April 29, 2003; failing within a reasonable time 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

**Miner, Kerri Lynn
(Lewisville); license# 286419**

Revocation of salesperson license, effective April 30, 2003; failing within a reasonable time 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

**Woodrow, Deborah Seidlits
(Plano); license# 397129**

Revocation of salesperson license, effective April 30, 2003; failing within a reasonable time 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

**Werner, Melissa Standridge
(Arlington); license# 357670**

Revocation of salesperson license, effective April 30, 2003; failing within a reasonable time 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

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.

Legislature Enacts License Law Changes...

Continued from page 1

authorized to increase the number of additional classroom hours for a "fast track" application for professional inspector from the current 60 up to 320 hours. TREC is also permitted to institute two-year inspector licenses, an action that would require rule-making by the Commission.

Finally, the Commission has the authority to require the posting of consumer notices on an inspector's website if the Commission so chooses.

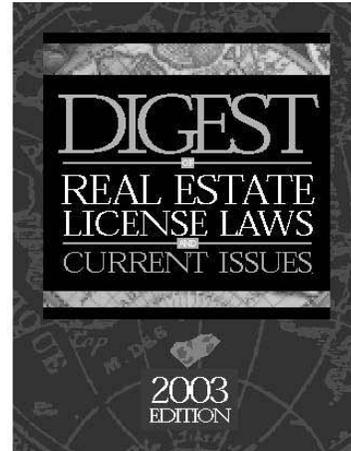
In other action, legislation to ensure an odd-number of members on state boards and commissions (**SB 287**) included the Texas Real Estate Broker-Lawyer Committee (currently comprised of 6 brokers and 6 attorneys) and added one public member to be named by the Governor. **HB 329** regulates mold assessors and mediators but does not apply to commercial or residential real estate inspections. **SB 14** is the major insurance legislation and includes a provision that an insurance company can use an inspection report completed by a TREC licensed inspector as a basis for refusing coverage. **SB 1105** incorporated revisions to the Texas Timeshare Act but was flagged on the last day of action in the House and, therefore, did not achieve a final vote.

HB 1 makes substantial cuts in TREC's appropriations authority and staff size. From a total spending authority of \$4,555,959 in Fiscal Year 2002, TREC's ability to spend funds was reduced to \$4,128,315 for the next fiscal year (FY04) beginning on September 1, 2003. While the agency's spending authority was reduced by over \$425,000, no changes were made in general license fees for brokers, salespersons, inspectors, and easement or right-of-way agents. TREC's authorized staff size for the next two years was reduced by 12 full time employees from its level in FY02.

If you're interested in obtaining information about real estate laws and practices in other jurisdictions, here are the best sources. The Texas Real Estate Commission is a member of ARELLO, the international real estate licensing law organization.

Digest of Real Estate Laws and Issues

If you monitor real estate in North America, or if your job relates to, supports or is supported by the real estate industry, then it is **essential** that you own this resource. The *Digest of License Laws and Current Issues* charts licensing requirements, license recognition/reciprocity, applicable fees, agency practice, examination data, required education data, recent case law, activities requiring licensure, fee-sharing restrictions and other important policies. In addition, the *Digest* contains extensive grids on the statistics that most accurately depict the industry. It's the only resource of its kind. ISBN 0-9717085-1-7



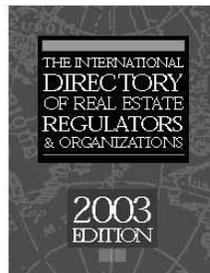
Newsletter Covers Changes to Laws/Rules

To meet the need for new information about evolving real estate laws and regulations, ARELLO has created [Boundaries], a bi-monthly newsletter that provides more current updates on changes that affect industry practice.

You will want to supplement the annual Digest with this publication to help keep up with the latest developments.

Directory of Real Estate Organizations

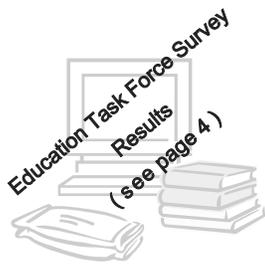
Whatever major real estate organization you are looking for, whether a regulatory agency or an industry alliance, the *Directory of Real Estate Regulators & Organizations* provides a complete global list of national and international groups in a compact publication.



Names, addresses and phone numbers are included for regulators all over the world, as well as for the individuals who play an important role as regulatory appointees or staff members. Order this useful guide today. ISBN 0-9717085-2-5

Organization _____
 Contact Name _____
 Street Address _____
 City _____ E-Mail _____
 State/Province/Country _____
 Postal Code _____ Phone # _____
 Payment Method: Check VISA MasterCard AMEX Discover
 Card # _____ Exp. Date _____
 Signature _____

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Renew your broker, salesperson or inspector license online at www.trec.state.tx.us

(Continued from page 3)

licensee when engaging in a real estate transaction on his or her own behalf, or on behalf of a business entity in which the licensee is more than a 10% owner, is obligated to inform any person with whom the licensee deals that he or she is a licensed real estate broker or salesperson acting on his or her own behalf either by disclosure in any contract of sale or rental agreement, or by disclosure in any other writing given prior to entering into any contract of sales or rental agreement."

- Q. Some agents claim that their spouse, who is not a licensed agent, "owns" the property, and therefore, the agent may use the term 'owner/agent' in his/her ad. Is this permissible?**
- A.** Section 535.144 of the Rules of the Texas Real Estate Commission applies only if the licensee has an ownership interest in the property or in an entity that owns the property. Disclosure is not required if the licensee's spouse sells separate property in which the licensee has no ownership interest and the licensee is not involved in the sale.
- Q. In placing an ad in the newspaper...is the word "agent" enough, or do you have to disclose the entire name of the real estate company in the ad?**
- A.** The word "agent", "broker", "locator", "realty", or "Realtor" (if appropriate) is enough to satisfy the requirements of the License Act, §15 (a)(6) (P) , and the Rules of the Commission, §535.154(d). However, if a name also appears, then the broker must be identified.
- Q. As a licensed professional inspector, am I qualified to perform a lead paint inspection or lead risk assessment on property that I inspect or on any property?**
- A.** No, unless you have obtained a certification from the Texas Department of Health to perform any lead-based paint activity including inspections. You may contact the Toxic Substances Control Division, Environmental Lead Branch at the Texas Department of Health for further information on certification requirements.
- Q. I am not licensed but, I would like to sell my property myself. What steps do I need to take?**
- A.** We cannot advise you on selling your home. Please understand that the Commission does not oversee real estate transactions in general; rather, the Commission's role is limited to licensing and regulating the professional conduct of real estate brokers, salespersons, inspectors, residential service companies, and timeshare developers. Because our role is that of a licensing authority, we are not permitted to provide legal advice to members of the public about real estate transactions that do not involve our licensees.
- Q. Is it permissible for a licensed mortgage broker to obtain a real estate license and work simultaneously in both professions?**
- A.** The Real Estate License Act does not prohibit a real estate licensee from holding a mortgage broker's license and acting in both capacities. You should also contact the Savings and Loan Commission to see how their regulations address this issue.

FYI Quick Links

Homebuyer's E-Guide from the
Real Estate Center at Texas A&M University
<http://www.recenter.tamu.edu>

Consumer Protection Division, Texas Attorney General
<http://www.oag.state.tx.us/consumer/>

Savings and Loan Department of Texas
1-512-475-1350
<http://tsld.state.tx.us/>

Information concerning mortgage broker licensing and regulation

Texas Department of Insurance
1-512-463-6169 1-800-578-4677
<http://www.tdi.state.tx.us/>

Answers to questions regarding homeowner's insurance, title insurance, and related services

Texas Department of Housing and Community Affairs
1-512-475-3800
<http://www.tdhca.state.tx.us/>

Housing assistance programs, manufactured housing and additional consumer information

U.S. Department of Housing and Urban Development (HUD)
1-202-401-0388
<http://www.hud.gov/>

Housing assistance programs, FHA loan information and additional consumer information