



# TREC Advisor

Texas Real Estate Commission ★ Volume 15, Number 3 ★ July 2004

## Commission Proposes MCE Rules

At its June 7, 2004 meeting, TREC proposed rules that will significantly change Mandatory Continuing Education (MCE) requirements for real estate brokers and salespersons to renew a license on active status. If adopted the rules will change the process by which MCE courses and instructors are approved and will require all real estate licensees to attend a three hour legal update and a three hour legal ethics course to fulfill the six legal hours of MCE to renew all active licenses under the Real Estate License Act.

The following summarizes the most significant changes to the MCE rules that were proposed at the June 7, 2004 meeting:

- **Effective date** - The effective date of the new rules if adopted will be January 1, 2005. Under this draft, licensees on active status will be required to take the required legal update and legal ethics courses for the next and all subsequent renewals of their license after January 1. Thus a licensee may, but is not required to, attend the required legal courses for his or her first renewal after the effective date, but the licensee is required to take the courses for the next and all subsequent renewals. For example, if your license expires July 31, 2005, you may but are not required to take the required courses for your 2005 renewal as long as you otherwise attend an approved course that meets the six-hour legal requirement in the Act. You must, however, take the required classes prior to your 2007 renewal. For licenses granted after the effective date, the licensee must attend the required courses to renew a license on active status. The change does not affect Salesperson Annual Education (SAE) requirements.
- **Required legal update and required legal ethics courses** - All real estate licensees will be required to take a three hour legal update course and a three hour legal ethics course created for and approved by TREC to satisfy the 6 legal hours of mandatory continuing education required by Occupations Code section 1101.455.
- **Instructor certification** - Instructors who teach the legal courses must be certified to teach the courses by attending an instructor training course to be offered by the Real Estate Center at Texas A&M University; instructors must be pre-approved by the Commission prior to attending the instructor training course and obtaining certification to teach the required courses.
- **Course updates** - The required legal update and ethics courses will be updated at the end of every odd numbered year (3 years for the first set of courses, every 2 years after).
- **Course modification** - The required course may be modified to supplement the courses with additional material or may be combined with elective courses.
- **Elective courses** - Elective courses to be used as credit for the remaining 9 hours required by section 1101.455 of the Act must be presentations of relevant issues that impact the practice of real estate or which increase or support the development of skill and competence; providers will be required to register each elective or combined course with the Commission.
- **Core and CLE** - Core and mandatory continuing legal courses may be accepted for satisfying MCE elective credit only.
- **Instructor application process** - Instructor applicants must satisfy the Commission as to the applicant's honesty, trustworthiness and integrity; providers will be responsible for ensuring that instructors are competent to teach a particular subject.
- **Distance education courses**-Correspondence and alternative delivery method courses to satisfy MCE required legal update and legal ethics hours must be substantially similar to the Commission live courses and must be developed by certified instructors. Distance education courses may be developed and registered to satisfy elective MCE credit.
- **Partial credit**-A provider may grant partial credit to a student who attends less than the complete course registered with the Commission; however, partial credit shall not be awarded for any hour in which the student was not present for at least 50 minutes of actual class time in a 50-minute class session. Partial credit may not be granted for any legal course segment of a combined legal and elective course.

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Comments on the proposed rules may be submitted to Loretta R. DeHay, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188 or [general.counsel@trec.state.tx.us](mailto:general.counsel@trec.state.tx.us).



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.

June 7, 2004

The Texas Real Estate Commission held its regularly scheduled meeting at the TREC headquarters in Austin, Texas on Monday, June 7, 2004.

Chairman John Walton presided.

Staff reports were presented. Assistant Administrator Sabrina Hassumani reported that the number of original applications continued to increase.

Robert R. Carter, Jr., Deputy Commissioner of the Title Division of the Texas Department of Insurance, spoke concerning a procedural Rule which became effective on April 1, 2004. This rule, P-53, prohibits rebates and discounts from title companies to real estate licensees.

After executive session, one recovery fund claim was approved for payment in the amount of \$50,000.

The Commission proposed amendments to thirty-five rules (See table page 2). Final action could be taken on these amendments at the August 9, 2004 meeting of the Commission.

The Commission voted to request an amendment to the Attorney General's opinion request approved at the April 2004 meeting. (See story at bottom of page).

The Commission approved the final draft of the agency's Strategic Plan. The plan will be submitted by July 2, 2004.

Tadys Dabsys, Vice President, PSI Examination Services, spoke concerning the review of the extension of the contract for examination services with PSI Examination Services. The Commission approved the extension of the contract.

The next meetings of the Commission will be August 9, 2004, October 18, 2004 and December 6, 2004.

Commission Authorizes Modification of Attorney General's Opinion Request

At its meeting on June 7, 2004, the Texas Real Estate Commission (TREC) authorized Administrator Wayne Thorburn to modify TREC's request for an opinion from the Office of the Attorney General (OAG) regarding TREC's statutory authority to establish minimum service standards for a real estate broker who enters into an exclusive agency relationship to represent a party to a real estate transaction.

The modified opinion request, RQ-0224-GA, strikes the phrase "when such services are appropriate in the transaction" from the first paragraph of the first question. The remaining questions and background information were not changed.

Check out the TREC web site for the most up to date information.....

RULES
CONTRACTS
APPLICATION FORMS
www.trec.state.tx.us

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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
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(512) 459-6544 or (800) 250-TREC
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**Real Estate Broker Applications can now  
be completed and paid *online*.  
Eligible salespersons who have met  
the experience and education requirements  
are encouraged to use this  
new TexasOnline Broker Application**

**RULES PROPOSED AT THE JUNE 7, 2004 MEETING OF THE TEXAS REAL ESTATE COMMISSION**

§535.2	Broker's Responsibility	Establishes a written disclosure for real estate licensee to provide to a client when the client instructs the agent not to negotiate a transaction on behalf of the client.
§535.51	Requirements for Licensure	Will adopt by reference a revised application for a real estate broker corporation. The application fee will increase by \$3 to pay a subscription fee to the TexasOnline Authority as required under Government Code Chapter 2054, Subchapter I, section 2054.252.
§§535.71-.73	Mandatory Continuing Education	Will require licensees to take a 3 hour legal update course and a 3 hour legal ethics course created for and approved by TREC to satisfy the 6 legal hours of mandatory continuing education required by the License Act. The proposed rules also adopt by reference thirteen new or revised MCE application forms that are consistent with the proposed rules.
§§535.71-.73	Mandatory Continuing Education	Will repeal current MCE requirements
§§535.91, .92, and .94	Licenses	Changes cites to the relevant statutory provision in Chapter 1101, Texas Occupations Code. See comments for §§535.71-.73.
§535.101	Fees	Changes cites to the relevant statutory provision in Chapter 1101, Texas Occupations Code.
§§535.122-.123	Termination of Salesperson's Association with Sponsoring Broker	Changes cites to the relevant statutory provision in Chapter 1101, Texas Occupations Code.
§§535.131, .132	Nonresidents	Changes cites to the relevant statutory provision in Chapter 1101, Texas Occupations Code.
§§535.141, .143, .147, .153, .154	Suspension and Revocation of Licensure	Changes cites to the relevant statutory provision in Chapter 1101, Texas Occupations Code.
§535.171	Suspension and Revocation of Licensure	Requires party appealing final decision of TREC in contested case to pay the costs of preparing the original or certified copy of a record for the contested case proceedings.
§§535.206, .208, .213-.216, .220, .224, .227	Real Estate Inspectors	Changes cites to the relevant statutory provision in Chapter 1101, Texas Occupations Code.
§535.300	Residential Rental Locators	Changes cites to the relevant statutory provision in Chapter 1101, Texas Occupations Code.
§§535.400, .402, .403	Easement or Right-of-Way Agents	Changes cites to the relevant statutory provision in Chapter 1101, Texas Occupations Code.
§§537.11, .46	Professional Agreements and Standard Contract Forms	Revises Standard Contract Form TREC No. 39-5, Amendment



# Disciplinary Actions

## April—May 2004

### Consumer Complaints

#### Calendar of Events

##### Commission Meetings:

August 9, 2004  
(Austin)

October 18, 2004  
(Austin)

December 6, 2004  
(Austin)

##### Broker-Lawyer Committee Meetings:

August 5, 2004  
(Austin)

##### Inspector Committee Meetings:

July 15-16, 2004  
(Austin)

##### Web site:

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

##### Phone

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

#### John Horton and Associates (Austin); license #463059

Agreed reprimand of broker license, entered April 14, 2004; negligent supervision of a sponsored salesperson, in violation of §1101.652(b)(1) of the Texas Occupations Code

#### Horton, John E. (Austin); license #312788

Agreed reprimand of broker license, entered April 14, 2004; supervision of a sponsored salesperson while acting as the designated officer of a corporate broker, in violation of §1101.652(b)(1) of the Texas Occupations Code.

#### Vigliotti, Carrie Lynn (Killeen); license #478802

Agreed 3-month suspension of salesperson license, fully probated for 6 months, effective April 15, 2004; agreed administrative penalty of \$500, entered April 15, 2004; drafting a legal document in a real estate transaction, in violation of 22 TAC §537.11(d) of the Rules of the Texas Real Estate Commission

#### Blair A C (Garland); license #232070

Agreed reprimand of broker license, entered April 19, 2004; negligent supervision of an associated salesperson/broker, when the associate salesperson/broker engaged in a property management business and failed to properly account for monies belonging to others and commingled owner's funds in violation of §15(a)(6)(W) of The Texas Real Estate License Act [§1101.652(b)(1) of the Texas Occupations Code, effective June 1, 2003]; negligent conduct by associating with and paying fees to a corporation that conducted real estate brokerage activities and at that time the corporation did not first hold a real estate broker license for a corporation in violation of §15(a)(6)(W) of The Real Estate License Act [§1101.652(b)(1) of the Texas Occupations Code, effective June 1, 2003].

#### Roberts, Shirley Thomas (Wylie); license #368990

Agreed 3month suspension of salesperson license fully probated for 6 months, effective May 3, 2004; Agreed administrative penalty of \$700, entered April 28, 2004; failing to disclose to a purchaser the existence of a drainage problem on real property in violation of §15(a)(6)(A), of The Real Estate License Act, Art. 6573A, Texas Civil Statutes [§1101.652(b)(3), Texas Occupations Code, effective June 1, 2003]; failing to make clear to all parties to a transaction which party she was acting for, in violation of §15(a)(6)(D) of The Real Estate License Act, Art. 6573a, Texas Civil Statutes [1101.652(b)(7), Texas Occupations Code, effective June 1, 2003]; conduct which constitutes untrustworthiness, in violation of §15(a)(6)(V) of The Real Estate License Act, Art. 6573a, Texas Civil Statutes [1101.652(b)(2), Texas Occupations Code, effective June 1, 2003]; acting negligently or incompetently in performing an act for which a person is required to hold a real estate license, in violation of §15(a)(6)(W) of The Real Estate License Act, Art. 6573a, Texas Civil Statutes, [§1101.652(b)(1), Texas Occupations Code, effective June 1, 2003]; failing to provide a written statement describing brokerage services to a party to a real estate transaction at the first face-to-face meeting with that party, in violation of §15C(d) of The Real Estate License Act, Art. 6573a, Texas Civil Statutes [§1101.558(c) and (d), Texas Occupations Code, effective June 1, 2003]; failing to obtain written consent for intermediary brokerage, in violation of §15C(h)(1) and (2) of The Real Estate License Act, Art. 6573a, Texas Civil Statutes, [§1101.559(a)(1), Texas Occupations Code, effective June 1, 2003]; failing to utilize a current Amendment to Contract form, in violation of 22 TAC §537.11(b)

#### Wells, Mary Adelynn (Houston); license #452459

Agreed 60-day suspension of salesperson license fully probated for 1 year, effective May 10, 2004; Agreed administrative penalty of \$500, entered May 10, 2004; making a material misrepresentation or failing to disclose to a potential purchaser any latent structural defects or other defects known to the broker or salesperson, in violation of Sections 1101.652(b)(3) and 1101.652(b)(4) of the Texas Occupations Code, and acting negligently or incompetently in performing an act for which a person is required to hold a real estate license, in violation of Section 1101.652(b)(1) of the Texas Occupations Code

#### Star of Texas Realty, Inc. (Austin); license #450840

Agreed administrative penalty of \$250 against broker license, entered May 13, 2004; negligent supervision of a sponsored salesperson, whose license expired several weeks after entering the sponsorship of the broker, in violation of §15(a)(6)(W) of the Real Estate License Act [§1101.652(b)(1) of the Texas Occupations Code, effective June 1, 2003]; allowing an unlicensed person to perform brokerage activity while associated with the broker's firm, in violation of §15(a)(6)(S) of the Real Estate License Act [§1101.652(b)(26) of the Texas Occupations Code, effective June 1, 2003]; and paying a commission or fees to an unlicensed person for compensation for services as a real estate agent, in violation of §15(a)(6)(F) of the Real Estate License Act [§1101.652(b)(11) of the Texas Occupations Code, effective June 2003]

#### Bujan, Charles Bruce (Austin); license #365436

Agreed administrative penalty of \$250 against broker license, entered May 13, 2004 ; a designated officer's negligent supervision of a salesperson sponsored by the corporate broker, in violation of §15(a)(6)(W) of the Real Estate License Act [§1101.652(b)(1) of the Texas Occupations Code, effective June 1, 2003]; while acting as the designated officer of a corporate broker, allowing an unlicensed person to perform brokerage activity while associated with the brokerage firm, in violation of §15(a)(6)(S) of the Real Estate License Act [§1101.652(b)(26) of the Texas Occupations Code, effective June 1, 2003]; and, while acting as the designated officer of a corporate broker, allowing the brokerage firm to pay a commission or fees to an

unlicensed person for compensation for services as a real estate agent, in violation of §15(a)(6)(F) of the Real Estate License Act [§1101.652(b)(11) of the Texas Occupations Code, effective June 1, 2003]

**Maddox, Tina D.**  
(Houston); license #498495

Agreed reprimand of salesperson license, entered May 17, 2004; Agreed administrative penalty of \$750, entered May 17, 2004; offering real property for sale on terms other than those authorized by the owner, in violation of Sections 1101.652(b)(20) and 1101.652(b)(1) of the Texas Occupations Code; failing to provide to a client written offer letters as promised, 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 1101.652(b)(1) of the Texas Occupations Code

**Munera, Jaime**  
(Killeen); license #429831

Agreed revocation of salesperson license, effective May 21, 2004; alleged failure to properly account for and remit money and commingling money that belonged to another person, in violation of §15(a) of the Real Estate License Act [§1101.652 of the Texas Occupations Code, effective June 1, 2003]

**CLegg, Portia Lavone**  
(Converse); license #465926

Agreed 2month suspension of salesperson license fully probated for 6 months, effective May 15, 2004; Agreed administrative penalty of \$100, entered May 7, 2004; publishing or causing to publish an advertisement which is misleading by failing to identify herself as a real estate salesperson, in violation of §1101.652(b)(23) of the Texas Occupations Code; failure to disclose that a rebate to a consumer would be subject to the consent of the party whom she represented in a transaction, in violation of 22 TAC §535.154(k).

## Administrative Complaints

**Keller, Brenda Jones**  
(Long Branch); license #402881

Revocation of salesperson license, effective April 2, 2004 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 §535.91(a) of the Rules of the Texas Real Estate Commission

**Mendez, Carlos Sanchez**  
(Plano); license #493784

Revocation of salesperson license, effective April 2, 2004; 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 §535.91(a) of the Rules of the Texas Real Estate Commission

**Hogan, Carisa Dawn**  
(Mesquite); license #465403

Agreed reprimand of salesperson license, entered April 5, 2004; Agreed administrative penalty of \$250, entered April 5, 2004; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC §535.92(f) of the Rules of the Texas Real Estate Commission

**Hatcher, Theresa Helen**  
(Austin); license #471861

Agreed reprimand of salesperson license, entered April 7, 2004; Agreed administrative penalty of \$250, entered April 7, 2004; failing to pay the \$200 fee within the 60-day period provided by 22 TAC §535.92(f) of the Rules of the Texas Real Estate Commission

**Minchen, Steven Lloyd**  
(Houston); license #330754

Reprimand of broker license, entered April 8, 2004; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC §535.92(f) of the Rules of the Texas Real Estate Commission

**Wallace, Alice Rebecca**  
(Sugar Land); license #236011 Revocation of salesperson license, effective April 8, 2004; 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 §535.91(a) of the Rules of the Texas Real Estate Commission

**Taber, Michael Lee**  
(South Houston); license #248640

Revocation of salesperson license, effective April 8, 2004; 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 §535.91(a) of the Rules of the Texas Real Estate Commission

**Gant, Craig Alan**  
(Dallas); license #464125

Revocation of salesperson license, effective April 8, 2004; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC §535.92(f) of the Rules of the Texas Real Estate Commission

**Ejereonyeoku, Best Onyeukwu**  
(Houston); license #456118

Reprimand of salesperson license, entered April 9, 2004; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC §535.92(f) of the Rules of the Texas Real Estate Commission

**Romero, Shelley**  
**(Lake Jackson); license #471404**

Agreed reprimand of salesperson license, entered April 27, 2004; Agreed administrative penalty of \$250, entered April 27, 2004; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC §535.92(f) of the Rules of the Texas Real Estate Commission

**Dickerson, Dusti Dale**  
**(Centerville); license #471098**

Revocation of salesperson license, effective April 30, 2004; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC §535.92(f) of the Rules of the Texas Real Estate Commission

**Fabian, Nettle Clair**  
**(Westlake Village); license #474460**

Revocation of broker license, effective April 30, 2004; 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 §535.91(a) of the Rules of the Texas Real Estate Commission

**Betancourt, Alfredo Valentin**  
**(El Paso); license #472237**

Revocation of salesperson license, effective April 30, 2004; 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 §535.91(a) of the Rules of the Texas Real Estate Commission

**Rivenbark, Teresa Ann**  
**(Dickinson); license #445349**

Agreed reprimand of salesperson license, entered May 6, 2004; Agreed administrative penalty of \$250, entered May 6, 2004; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC §535.92(f) of the Rules of the Texas Real Estate Commission

**Langdon, John Oliver, Jr.**  
**(Dallas); license #471932**

Agreed reprimand of salesperson license, entered May 6, 2004; Agreed administrative penalty of \$250, entered May 6, 2004; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided 22 TAC §535.92(f) of the Rules of the Texas Real Estate Commission

**Long, Anthony Wayne**  
**(Dallas); license #419915**

Agreed reprimand of salesperson license, entered May 12, 2004; Agreed administrative penalty of \$250, entered May 12, 2004; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC §535.92(f) of the Rules of the Texas Real Estate Commission

**Kennemer, Malvern Hughes**  
**(Garland); license #272938**

Revocation of salesperson license, effective May 13, 2004; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC §535.92(f) of the Rules of the Texas Real Estate Commission

**Herron, Evelyn T.**  
**(San Antonio); license #474953**

Revocation of salesperson license, effective May 14, 2004; 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 §535.91(a) of the Rules of the Texas Real estate Commission

**Parker, Steven Glen**  
**(Fort Worth); license #496784**

Revocation of salesperson license, effective May 14, 2004; 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 §535.91(a) of the Rules of the Texas Real Estate Commission

**Proctor, William Charles**  
**(Bowie); license #370026**

Agreed reprimand of broker license, entered May 17, 2004; Agreed administrative penalty of \$250, entered May 17, 2004; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC §535.92(f) of the Rules of the Texas Real Estate Commission

**Calvano, Matthew Anthony**  
**(Arlington); license #457332**

Agreed reprimand of salesperson license, entered May 18, 2004; Agreed administrative penalty of \$500, entered May 18, 2004; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC §535.92(f) of the Rules of the Texas Real Estate Commission

**Salinas, Sandra**  
**(Bruni); license #452335**

Agreed reprimand of salesperson license, entered May 25, 2004; Agreed administrative penalty of \$250, entered May 25, 2004; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC §535.92(f) of the Rules of the Texas Real Estate Commission

## ***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>

- Q. May offers and counter offers be presented over the telephone or should the actual, written proposed contract be presented to the seller's agent?**
- A.** The laws and rules that govern Texas licensees do not specify the means of presenting a contract. They only require that all offers be presented. It is a matter of agreement between the licensee and the seller as to how and when offers will be submitted. The licensee and the seller should keep in mind that in Texas the Statute of Frauds, among other things, requires most all real estate transactions to be in writing and signed by both parties in order to be binding.
- Q. May a real estate broker or salesperson perform real estate appraisals in Texas?**
- A.** Yes, real estate licensees in Texas may perform appraisals subject to certain restrictions and disclosure requirements found in the Rules of the Texas Real Estate Commission in §535.17, and state and federal laws that require state certification, which may be found at [www.talcb.state.tx.us](http://www.talcb.state.tx.us). Please keep in mind that if you are a licensed salesperson, you may only perform appraisals through and in the name of your sponsoring broker.
- Q. I have seen internet ads in which real estate agents are offering \$50 to \$150 cash payments to anybody who sends them business. I thought this was illegal, is it?**
- A.** If the person who sends business to the agent does not have a Texas real estate license, the agent who placed the ad is in violation of the Texas Real Estate License Act by offering to pay or paying a commission, finder's fee, etc. to an unlicensed person. The most the agent could give to someone sending him business is a GIFT valued at \$50 or less. Cash may NOT be given. If the person referring business to the internet agent is a real estate licensee, the agent may share any amount of his commission with that licensee. Additionally, the unlicensed person who receives cash from the agent is also in violation of the Act and could be the subject of an investigation and legal action by the Commission by being required to pay a penalty. Also unlicensed real estate activity is a violation of Texas criminal law as well and is classified as a Class A misdemeanor.
- Q. I work for a hotel resort that is going to begin to rent/lease on-site homes and condominiums to overnight guests, as well as renting for short-term stays. Do I or anyone in our organization need a real estate license to do this?**
- A.** No, as long as you only rent or lease short-term which generally requires the payment of hotel taxes and other hotel or motel fees. An employee of the property owner is exempt from TREC regulation when leasing or renting the owner's property.
- Q. May a licensed escrow officer also hold a real estate license?**
- A.** Yes, nothing in our statutes or rules would prohibit you from holding both licenses. However, you should check with the licensing authority, Texas Department of Insurance at [www.tdi.state.tx.us](http://www.tdi.state.tx.us) to find out what restrictions, if any, they may have on such an arrangement.
- Q. I live in a neighborhood that has a homeowners' association. The number of homes that have been foreclosed on is fairly high. The association board seems to be out of control. What state agency has control over these boards?**
- A.** Thus far the Texas legislature has not given the Texas Real Estate Commission or any other state agency the authority to regulate property or homeowner associations. Your only recourse is to consult a private attorney about your options as a homeowner.
- Q. I am a real estate broker. I would like to purchase errors and omissions insurance. Whom should I contact?**
- A.** The Texas Real Estate License Act does not require real estate licensees to obtain errors and omissions insurance, nor does the Commission regulate this type of insurance. You may wish to contact the Texas Department of Insurance at [www.tdi.state.tx.us](http://www.tdi.state.tx.us) as a source for names of companies who sell errors and omissions insurance in Texas.
- Q. I am a real estate licensee. I also am commissioned as a notary public. I would like to use the fact that I am a notary public in marketing to my clients. May I do so? If so, am I allowed to put the notary public logo on my business cards? May I charge for notary services?**

- A.** The Texas Real Estate License Act does not prohibit an advertisement used for real estate services from including other types of services as long as the advertisement is not misleading to the public. A business card is considered a form of advertisement. Since your notary commission is given through the Texas Secretary of State, you should contact them at [www.sos.state.tx.us](http://www.sos.state.tx.us) to find out if there are any laws or rules prohibiting the use of the official state notary logo in advertisements of any kind. The Secretary of State can also give you information about fees that you are or are not allowed to charge. TREC does not regulate the fee charged for real estate brokerage services.
- Q. Must a newspaper ad include my office telephone number, or may I put my cell phone number only?**
- A.** Nothing in the Real Estate License Act or the Commission's Rules requires that the office telephone number be included in a licensee's advertisements. It would be advisable for you to check with your sponsoring broker or company broker for company policies on this issue.
- Q. Who is responsible for licensing and regulating residential service companies, also known as home warranty companies?**
- A.** The Texas Real Estate Commission is responsible for the regulation of residential service companies under the Texas Residential Service Company Act. You may direct questions or complaints to TREC regarding any of these companies.
- Q. Do residential service companies have a maximum allowable response time to address a service request?**
- A.** Yes, the Act states that service must be initiated within 48 hours under normal circumstances. This means that the company is required to dispatch a call to a contractor or technician in your area, and the contractor or technician should be in contact with you within 48 hours from the time of your call for service. In the majority of cases, we expect the contractor or technician to be at your home within 48 hours to diagnose the problem.
- Q. May I pay a finder's fee to someone to drive around and look for vacant houses for me to purchase and renovate?**
- A.** You may only pay a finder's fee, which would be the same as a commission, to a person who is a licensed real estate broker or salesperson. Under the , a license is required for a person to procure or assist in procuring, for a fee or other consideration (commission), property for a prospective purchaser of real estate. Anyone performing these services without a license may be charged with and convicted of a criminal offense as well as being assessed an administrative fine for unlicensed activity.
- Q. Is there a law or rule that would prevent real estate agents from referring a client to a specific inspector?**
- A.** Nothing in the Real Estate License Act or the Commission's Rules specifically addresses this question, and a real estate broker or salesperson is not prohibited from referring a principal (client) to a particular inspector. If a referral is made and the agent anticipates receipt of a fee for the referral, the licensee is required to disclose to the licensee's client that the licensee intends to receive the referral fee from the inspector and further that the licensee get the consent of the client. The same holds true for the inspector disclosing the payment of the fee to the agent. The inspector must disclose the payment to the client and obtain the consent of the client.

## **FOR YOUR OWN GOOD . . . CHECK THE EXPIRATION DATE OF YOUR LICENSE**

**It is your responsibility to ensure that your license is renewed in a timely manner. Any education you might require must be completed before your license expiration date if you want to maintain an active real estate license, unless you pay an additional \$200 fee and complete your MCE within 60 days of the expiration date of your license.**

**Renewal forms are sent out to all licensees and may also be obtained on our web site. The Texas Real Estate Commission is not responsible for U.S. Postal Service delivery or knowing where to find you if you have moved and have not filed a change of address with our office. Failure to receive a renewal notice does not provide a valid excuse for not renewing your license.**