



TREC Advisor

Texas Real Estate Commission ★ Volume 17, Number 5 ★ November 2006

Annual Report for FY 2006

Policy Changes and Developments



Chairman John Walton

During the past fiscal year, the Texas Real Estate Commission came under "Sunset" review - the periodic review required of all state agencies to determine if the agency needs to continue in existence and, if so, how it might more effectively carry out its responsibilities. Staff of the Sunset Advisory Commission met with TREC officials and staff as well as affected industries and organizations and the public. From their review, a number of recommendations were made to the Sunset Advisory Commission, including a recommendation that TREC retain its status as an independent state agency for the next twelve years. These staff recommendations, with one minor amendment, were accepted by the Sunset Advisory Commission at its meeting on August 8, 2006. They will now be incorporated into a bill to be introduced in the 80th Regular Session of the Legislature.

With changes effective January 2006, an applicant for a salesperson license must complete 150 hours of core real estate course work prior to taking the real estate license examination and complete the remaining 60 hours of core real estate courses during the first year of licensure. This change has moved all new licensees into the mandatory continuing education cycle after the first year as a salesperson. Additionally, the requirement for all licensees to complete 3 hours of a TREC-mandated Legal Update course and 3 hours of a TREC-required Ethics course becomes effective for all licensees starting in January 2007.

A major rewrite of the Texas Timeshare Act was achieved during the last legislative session and signed into law by Governor Perry. This new law took effect in January 2006 and takes into consideration new forms of timeshares, club memberships, and non-equity destination clubs which have entered the market since the original Act was adopted twenty years ago.

Another law established a new arbitration process for disputes between a property owner and an appraisal review board as to the value of real estate. When such a disagreement cannot be solved through discussion, a property owner may file a request with the Office of the Comptroller for binding arbitration. An arbitrator will be chosen to make a determination as to the appropriate appraised value of the property. Only brokers, salespersons, and appraisers who have completed a 30 hour arbitration course and filed with the Comptroller's office can serve as an arbitrator.

Growth in Real Estate Licensees Over the Past Six Years

	FY01	FY02	FY03	FY04	FY05	FY06	6 Year Change
Transcript Evaluations	16,897	20,378	22,346	27,190	31,421	31,890	+88.7%
Original Applications	11,941	16,668	17,298	18,226	21,556	25,733	+115.5%
Individuals Examined	11,768	16,534	15,482	19,369	23,440	24,557	+108.7%
Licensed Salespersons	72,318	78,086	82,296	88,421	97,126	106,597	+47.4%
Licensed Brokers	39,673	39,659	39,366	39,691	40,437	41,335	+4.2%
Licensed Inspectors	2,196	2,399	2,599	3,077	4,037	4,093	+89.4%

More Licensees

When Fiscal Year 06 closed on August 31, 2006 the State of Texas had a total of 147,932 licensed real estate brokers and salespersons - an increase of over 10,000 in one year, 4,093 licensed inspectors, and 1,234 easement or right-of-way registrants. The number of individuals entering the business far exceeds the number leaving or retiring as a total of

20,802 new broker and salesperson licenses were issued in Fiscal Year 06 and an additional 7,642 previously-licensed salespersons and brokers regained a license. In fact, there has been an increase in real estate licensees consistently every month since January 2001. Moreover, there is every indication that the trend will continue into the immediate future as more and more Texans seek to obtain a real estate license and a high percentage of licensees decide to renew. Over ninety percent of all brokers renewed their licenses in a timely fashion in FY06 and approximately five of six experienced salespersons did the same.

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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The continuing influx of new licensees can be seen in the "pipeline" (previous table) from transcript evaluation (where one finds out how many classes must be completed before filing an application) to original application (where one obtains approval to take a real estate examination) and on to individuals examined (the number who take an examination at a testing center) ending up with new licenses issued. At each of these stages, the increase over the past five years has been substantial, resulting in an overall 47.4% increase in licensed salespersons.

**Fiscal Year 06
Applicant Examination
Pass Rate**

Broker	94.0%
Salesperson	84.7
Professional Inspector	65.8

While more individuals are attempting to obtain real estate licensure, the pass rate on the salesperson examination has increased. The broker pass rate increased from 91.4% in FY03 to 94.0% in FY06 while the salesperson pass rate went from 77.6% three years ago to a pass rate of 84.7% in FY06. This is a good sign for continuing a high level of service and competency among real estate professionals in Texas.

The pass rate for professional inspector candidates has also increased from only 45.0% in FY03 to 65.8% last year. Inspector candidates are limited to three attempts in a six month period while there is no limit on salesperson and broker candidates.

License renewal rates remained roughly the same as in previous years with approximately nine of every ten brokers choosing to retain their license. Nearly as high a percentage of experienced salespersons (those with two-year licenses) renewed their licenses in FY06 while nearly three-fourths of newer salespersons (those still under Salesperson Annual Education)

decided to keep their real estate license. These percentages do not include the 7,645 individuals who filed a "late renewal" shortly after their license had expired. Given the number of possible reasons why an individual might not renew, these percentages are quite high and indicate a desire to retain licensure whether or not one is actively involved in the profession. In fact, approximately 20% of all real estate licenses (29,229) are "inactive," held by those who wish to retain a license for possible future use.

FY06 License Renewal Rates

Broker Timely Renewal	90.3%
Salesperson 2 year License Renewal	83.1
Salesperson 1 year License Renewal	73.7

Online Services

The Texas Real Estate Commission has long been dedicated to providing as many services as possible on the Internet to increase the convenience and ease of use by licensees and the public. The Commission's web site (www.trec.state.tx.us) has been recognized as one of the best among real estate licensing entities and among State of Texas agencies. In 2005, TREC received the outstanding web site award from the international Association of Real Estate License Law Officials (ARELLO), the second time it has been the recipient of this honor. From the wealth of forms and materials available to the "licensee lookup" function which includes all education records, to the online distribution of the TRECAdvisor newsletter, TREC's web page provides a quick and handy reference to all aspects of real estate regulation.

FY06 Percentage of Transactions Completed Online

License Applications	68.7%
Broker License Renewals	36.6
Salesperson Renewals	42.6

More than 27 million Commission web pages were viewed by licensees and the public in the past fiscal year. Nearly one hundred and twenty thousand email addresses are now maintained on the TREC email notification system. Truly, the Internet has changed the means by which this state agency can communicate with the public - both in providing information and in receiving requests and transactions.

Since the year 2000, the Commission has provided a means by which individuals can renew their licenses online. Beginning first with salesperson renewals, this service now extends to virtually all license types. Additionally, license applications can be made over the Internet. In Fiscal Year 2006, thousands of transactions were conducted online by individuals seeking to apply or renew a license with the Texas Real Estate Commission. In Fiscal Year 06, over 40% of all license renewals were made over the Internet by use of a credit card while more than two-thirds of all license applications come via the Internet and the TexasOnline system. With the new postcard renewal notification system effective in Fiscal Year 07, these percentages will increase substantially - providing additional convenience to the public while reducing processing time and effort by the Commission staff.

Related Programs

In addition to real estate and inspector licensing and regulation, the Texas Real Estate Commission has responsibility for a number of other programs. Easement or right-of-way agents who are not employed directly by a corporation for whom they provide services must register with TREC and pay an annual license fee. The number of ERW registrants increased dramatically over the past year from 985 in Fiscal Year 05 to 1,234 at the end of Fiscal Year 06.

Companies desiring to sell homeowner warranty policies in Texas must be licensed with TREC under the provisions of the Residential Service Company Act. Recently TREC has witnessed the entry of unlicensed companies in the state attempting to sell contracts. This has resulted in the issuance of "cease and desist" letters as well as notification to licensee organizations around the state of the presence of unlicensed entities approaching real estate brokers, salespersons and consumers. As of August 31, 2006 there were 21 residential service companies authorized to provide contracts in Texas, up from 19 one year previously.

Any developer who wishes to sell timeshare interests in the State of Texas, regardless of the location of the specific timeshare property, must meet stringent registration requirements and be registered with the Commission. These may range from one-week packages at a specific resort to club membership which can be used at any of a number of locations to fractional ownership providing six to ten weeks occupancy in a townhouse or resort. Working with various industry representatives, the Texas Real Estate Commission developed amendments to modify the Texas Timeshare Act and the changes went into effect in January 2006. The new law includes "destination clubs" or "non-equity clubs" whereby a member receives the right to use certain properties upon payment of an initial sum and annual fees, but does not acquire a deeded interest in any real property. Such "non-equity clubs" must register with TREC before attempting to solicit memberships in Texas, regardless of the location of the properties involved.

The Texas Broker-Lawyer Committee continues its process of reviewing and revising promulgated contract forms and addenda, where appropriate. The Texas Real Estate Inspector Committee meets periodically to discuss issues relating to inspector licensing and regulation, make recommendations to the Real Estate Commission, and review proposed rules impacting home inspectors.

Additionally, the Texas Appraiser Licensing and Certification Board is an independent subdivision of TREC. Its offices are located with TREC and the agency provides many services for appraiser licensing and regulation. TREC's Administrator serves as Commissioner of the TALCB.

Other Registrants

	FY 2003	FY 2006
Easement or Right-of-Way Agents	810	1,234
Real Estate Instructors	1,257	2,747
Pre-Licensure Proprietary Schools	42	54
Continuing Education Providers	160	269
Registered Timeshare Properties	236	290
Residential Service Companies	18	21
Certified Appraisers	3,962	4,464
Licensed Appraisers	439	885
Provisional Appraisers	43	49

Real Estate Education

The Texas Real Estate Commission is responsible for the oversight of many aspects of real estate education, including the registration of real estate providers, instructors and courses for both pre-licensure and continuing education. While accredited colleges and universities can provide pre-licensure real estate courses without TREC approval, any proprietary school or association wishing to offer pre-licensure courses must make application and obtain approval from the Commission. All continuing education providers, including accredited colleges and universities, must obtain TREC approval as a provider as well as for each continuing education course they wish to offer. At the end of Fiscal Year 06 there were 54 approved providers of pre-licensure education in Texas and 269 approved continuing education providers. These totals reflect a sizeable increase in just three years as there were only 42 core education providers and 160 MCE providers at the end of FY03. Periodically, TREC Investigators conduct onsite audits of these education providers to ensure compliance with provisions of the Real Estate License Act (Chapter 1101, Texas Occupations Code).

The Commission adopted two new continuing education courses which will be required of all salespersons and brokers beginning with 2007 license renewals. The new TREC Legal Update and Ethics courses are each three hours in length, must be taught by a certified instructor, and were developed by the Real Estate Center at Texas A&M University. The courses were recognized by receiving the award as the outstanding Continuing Education Courses by ARELLO at its 2005 annual meeting in Toronto, Canada.

Consumer Services

The number of complaints processed by TREC's Enforcement Division continues to grow at a rapid pace. From a total of 3,122 complaints filed in Fiscal Year 01, the caseload grew to 3,691 in Fiscal Year 03 and up to 5,391 in Fiscal Year 06 - an increase of 72.7% in five years, during which time the number of Enforcement staff remained constant. This has resulted in the average time to close a complaint increasing over time due to the greatly expanded workload for investigators, staff attorneys, and administrative personnel in the Enforcement Division. More than 37% of all these complaints were received from the public while an additional 42% involved a licensee's failure to comply with administrative requirements, and the remaining 21% involved applicants' or licensees' criminal records.

	<i>Complaint Matters Opened</i>	
	<i>FY03</i>	<i>FY06</i>
Public Complaints	1,684	2,020
Administrative Matters	1,419	2,221
License Application Investigations	348	713
Moral Character Determinations	240	437

The Enforcement Division opened 5,391 complaint matters in FY06, consisting of both consumer concerns and administrative issues such as bad checks, failure to comply with license requirements, or failure to provide required information. Additionally, the Enforcement Division must undertake an investigation when an appli-

cation or renewal indicates that a criminal violation may have occurred. Sometimes an applicant will seek advice as to whether he or she is likely to meet the standard of honesty, integrity, and trustworthiness required of a licensee before taking the requisite real estate courses and license examination. In these instances, the Enforcement Division is called upon to render a moral character determination providing advice to a potential applicant as to whether or not it is feasible to pursue a real estate license. Complaints involving criminal matters and moral character determinations have nearly doubled in only three years.

Among the results from complaint matters taken to completion in FY 2006, there were 94 instances of a reprimand or censure, 55 licensees placed

on probation, 24 license suspensions, 54 license revocations and 17 licenses surrendered, and 124 matters resulting in a fine or administrative penalty. Additionally, Enforcement investigations resulted in the issuance of 77 probationary licenses. While many of these outcomes were the result of a hearing conducted before the agency's Administrative Law Judge, still others were the result of an agreed order between the Enforcement Division and the licensee, similar to a plea bargain in a criminal case.

Performance Measures and Fiscal Issues

In the current system of performance based budgeting, all state agencies are required to report on their ability to meet certain performance measures. In FY06, the Commission was able to once again meet or exceed nearly all key performance measures developed by the Legislative Budget Board in conjunction with the Texas Legislature. The Commission also continued to receive high marks from both its clients (in the Customer Service Survey available to all who interact with TREC) and its staff (in the Survey of Organizational Excellence conducted by the University of Texas). Once again, TREC was pleased to receive recognition for the highest percentage employee participation in the State Employee Charitable Campaign for all agencies in its size group.

In the past fiscal year, the Texas Real Estate Commission collected over nineteen million dollars in fees and other revenue. Of this amount, slightly more than four and one-half million dollars was available for expenditures by the Commission and the Appraiser Board. Although the amount of revenue may vary each year due to the number of individuals who renew or obtain a new license, the agency is appropriated a fixed sum of money by the General Appropriations Act and cannot spend beyond that amount. TREC is limited also in the number of employees it may retain with a full time equivalent (FTE) cap of 83 for both TREC and the Appraiser Board - a decline from the 95 employees allowed in Fiscal Year 03.

While the agency received more than nineteen million dollars in revenue during FY06, 77% of that sum was directed to other agencies or entities of Texas government. With the increased number of licensees, the expanding demands for complaint resolution, and the additional requirements of administering the Timeshare Act, the Residential Service Company Act, and the Appraiser Licensing and Certification Act, more of the funds collected from licensees and registrants needs to be directed to the purpose for which it was collected, namely the administration of the responsibilities delegated to the Texas Real Estate Commission.

Disposition of Revenue Received Fiscal Year 2006

Total Revenue Collected From Licensees and the Public	\$19,853,770
-Fees Collected for Other Entities	[11,129,761]
-Payments for Services to Other State Agencies	[1,075,192]
-Agency Income Returned to State General Revenue	[3,141,752]
FUNDS REMAINING FOR AGENCY EXPENDITURES	\$4,507,065