



TREC Advisor

Texas Real Estate Commission ★ Volume 19, Number 1 ★ January/February 2008

★ Inside this issue... ★

- Meeting Highlights 2
- Annual Report 3
- Rule Actions 8
- Disciplinary Actions 10
- Calendar of Events 10

Fingerprint Law Effective January 1, 2008

Fingerprint Requirements

A recently enacted law (HB 1530, 80th Legislature, regular session) requires any person applying for or renewing a broker or salesperson license on or after January 1, 2008, to provide their fingerprints, in a specified format, in order to enable an FBI criminal background check to be performed. These new fingerprint requirements apply only to brokers and salespersons. They do not apply to other TREC licensees, such as inspectors. **Once fingerprints provided for TREC are on file with DPS, a licensee will not need to be fingerprinted for subsequent renewals.**

 **Fingerprinting and FAST Print Pass information** - Brokers and Salespersons applying or renewing after Jan. 1, 2008 will now need to provide fingerprints. [Read about it and get your FAST Print Pass.](#)

Please **DON'T** send fingerprint cards, Fast Print Passes, or anything else related to FINGERPRINTS to TREC. All fingerprints **MUST** be submitted through IBT. [Click here for info on how to contact IBT, and for a complete list of questions and answers](#) regarding fingerprinting.

Where do I get a FAST Print Pass

To get a Fast Print Pass go to the TREC web site at www.trec.state.tx.us and follow the instructions in the blue box at the top of the web page (see example at left).

Click on [Read about it and get your FAST Print Pass](#) this will take you to the screen where you will be asked for your license number or TREC ID number if you are not yet a licensee. The TREC ID number will be preprinted on the *FAST Print Pass*. The *FAST Print Pass* also has a specific number printed on it called an ORI or Agency Number. This number is the number assigned to TREC and ensures that DPS send the report to the correct agency.



This document is your **FAST Print Pass** to be fingerprinted for a criminal history record check. You must present this document at the time of fingerprinting. Fingerprinting services are provided, by appointment only, at Integrated Biometric Technologies (IBT) locations throughout the state and will soon be provided at select Psychological Services Incorporated (PSI) locations. Fingerprints are submitted to the TXDPS/FBI with results delivered to TREC within one week. You may pay for **FAST** services online with a credit card or onsite with a check or money order only. To schedule an appointment, call 1-888-467-2080 or visit www.L14.com and do the following:

1. Select "Texas"
2. Select Option A
3. Select "Yes, I have a FAST Pass"
4. Enter **TX922230Z** when prompted for "Agency Number/ORI"
5. Enter "Applicant Type" (shown below), when prompted
6. Enter your personal information and select service location, date and time.
7. Bring this completed form with you to your appointment.

Agency Information

Agency ORI: **TX922230Z** Applicant Type: 880000000
 Requesting Agency Name: **Texas Real Estate Commission** Reason for fingerprinting: **QC 411.122**

Applicant Information (To be completed by LICENSEE, MARY JANE I)

Applicant Last Name _____ First Name _____ Middle Name _____
 Sex: Male Female Race _____ Ethnicity _____ Skin Tone _____
 (W, B, A, L, O) (Hispanic or Non-Hispanic)
 Date of Birth _____ Height _____ Weight _____ lbs. Hair Color _____ Eye Color _____
 (feet and inches)
 Place of Birth _____ Citizenship _____ Social Security No. _____
 (state or country) (country)
 DL / ID No. _____ State Issuing DL / ID No. _____
 Home Address _____ Street Address _____ City _____ State _____ Zip _____

Service Center Information (To be completed by FAST Live Scan Operator)

Date Prints Taken _____ Amount Charged For Service _____
 Paid by: Check Money Order Visa MasterCard Billing Acct _____
 At time of scheduling At time of appointment

TCN _____
 I HAVE COMPARED THE GOVERNMENT-ISSUED IDENTIFICATION PRESENTED BY THE APPLICANT AND ATTEST THAT TO MY BEST DETERMINATION, I HAVE FINGERPRINTED THE SAME PERSON.

Printed Name of LSO: _____
 Signature of LSO: _____

Where to Get Your Fingerprints Taken

Integrated Biometric Technologies (IBT) is the vendor that handles the collecting and submitting of fingerprints to the FBI via the Texas Department of Public Safety (DPS). IBT gathers the fingerprints and takes a photograph. Note that you must first obtain a *FAST Print Pass* from TREC in order to make an appointment with IBT. IBT has locations all over Texas. See our web site for more information.

I've already had my fingerprints taken for another license type. Why do I have to do it again?

The fingerprints must be identified with a specific agency. This is a requirement of DPS to ensure that each background check request submitted to FBI is from an agency that is statutorily required to obtain it.

Remember once this information is on file with TREC a licensee will not have to repeat the fingerprinting process.



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.

December 10, 2007

The Texas Real Estate Commission held its regularly scheduled meeting at the TREC headquarters in Austin, Texas on Monday, December 10, 2007. Chairman John Walton presided.

During staff reports new employees were introduced. During committee reports, Fred Willcox of the Texas Real Estate Inspector Advisory Committee reported that officers had been elected. They are Larry Foster, Chairman, Brad Murphy, Vice-chair and Jill Frankel, Secretary.

The Commission voted to authorize payment on three claims against the Real Estate Trust Account in the amounts of \$50,000, \$2,400 and \$14,530.

The Commission adopted on a permanent basis a series of amended and new rules and 2 repeals. The majority of the rules and both the repeals were adopted on an emergency basis at the August 6, 2007 meeting.

Rules were adopted which adopt by reference two revised contracts (new home complete and incomplete) and three addenda concerning Property Located Seaward of the Gulf Intracoastal Waterway, Third Party Financing and a new Addendum Containing Required Notices Under Texas Property Code §5.016, §420.001 and §420.002.

The Commission heard comments on Texas Attorney General Opinion No. GA-0581 (2007) regarding whether an applicant for a real estate inspector license is required to carry general liability insurance, professional liability insurance, or both.

The Commission authorized Mr. Irvine to enter into a Memorandum of Understanding with the Texas Department of Public Safety to provide fingerprinting services for the Commission as required by law.

The Commission re-appointed George Stephens for another term to the Mortgage Broker Advisory Committee.

The Commission denied a motion for modification of order and a motion for probation in the matter of Gerald Lee Morey, Hearing No. 07-348-070178.

The next scheduled meetings of the Commission will be February 25, 2008, and April 28, 2008, at the TREC headquarters in Austin, TX.

For real estate licensees who renew their licenses after January 1, 2008 there are three steps to renew.

1. **Complete** the required **education** for the license type. (Either 30 or 60 hour core course for SAE or 15 hours of MCE)
2. **Submit** your **fingerprints** through IBT.
3. **Pay** the renewal **fee**.

Education and fingerprinting are not required for a timely renewed inactive license if you are subject to MCE.

If you are subject to SAE you are required to complete the annual education requirement even if you are renewing on an inactive status. Renewals without education for this type of license will be rejected. **Both SAE and fingerprinting should be completed at least 10 days prior to the license expiration date.** Fingerprinting is not required for a timely renewed inactive license if you are subject to SAE.

Late renewal applications require the submission of fingerprints.

Official publication of the

Texas Real Estate Commission

Volume 19, Number 1

January/February 2008

Rick Perry
Governor

Commission Members:

John Walton
Chairman
LUBBOCK

John D. Eckstrum
Vice-Chair
CONROE

Tom C. Mesa
Secretary
PASADENA

Troy C. Alley, Jr.
ARLINGTON

Adrian A. Arriaga
MC ALLEN

Mary Frances Burleson
DALLAS

Chris Day
JACKSONVILLE

William H. Flores
COLLEGE STATION

Elizabeth Leal
EL PASO

TREC Administrator
Timothy K. Irvine

Desktop Publishing
Patricia Holder

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>

Annual Report for FY 2007

2007, A Year of Changes That Will Impact 2008

In fiscal year 2007 the Texas Real Estate Commission and the Texas Appraiser Licensing and Certification Board experienced the beginnings of some significant changes.

- The Sunset Review process culminated in the 80th Legislature's continuing the Commission's existence for 12 more years and adopting the Sunset Review Commission recommendations, including streamlining and prioritizing complaint resolution and enforcement activities, enhancing enforcement powers, and merging more fully the activities and operations of the Commission and the Appraiser Board while retaining the Appraiser Board's status as an independent regulatory authority.
- New enhanced MCE requirements took effect for real estate licensees.
- Real estate brokers and salespersons became, effective January 1, 2008, subject to new fingerprinting and criminal background check requirements.
- The Commission and the Appraiser Board, along with the Attorney General, the Department of Insurance, the Office of the Consumer Credit Commissioner, the Savings and Mortgage Lending Department, and the Department of Public Safety were assigned new responsibilities as a mortgage fraud task force.
- "Fast track" provisions for inspector licenses were changed to require both education and experience, and inspectors were required to obtain insurance to protect the public against certain violations.
- New federal education and testing requirements for appraisers were instituted to take effect January 1, 2008.
- The Commission was appropriated the funds to undertake significant enhancements to its systems, facilitating a transition to web-based technology and the implementation of imaging technology. The former will facilitate the Commission in keeping pace with the licensees it oversees while controlling costs, relying increasingly on technology to achieve greater efficiency while enhancing customer service. The latter will dovetail with the goal of enhancing customer service, ultimately making the Commission's licensee records, which occupy a 6,000 s.f. file room, to be more readily accessible not only to the Commission staff but also to licensees and the general public.
- As FY 2007 drew to a close, the Commission's long time administrator, Wayne Thorburn, retired, and Tim Irvine joined the agency as administrator.
- Somewhere around the middle of FY 2007, it became clear on a national level that mortgage markets were in for significant change. Significant numbers of adjustable rate mortgages re-priced, placing borrowers under financial stress as they dealt with rapidly escalating payments. Other non-traditional mortgage products, including subprime loans, products tailored to reduce front end equity requirements, and products that did not use extensive, traditional income verification, began to experience problems. These issues have continued to unfold. Although Texas is blessed with many things that enhance the stability of real estate values, Texas is not immune to these national forces. So FY 2007 set the stage for changes in the Texas real estate markets. As the numbers below will show, it is too early to say what these changes will be, but the Commission is prepared for the possibility that real estate license activity may cool if the Texas real estate markets cool substantially. The Appraiser Board is already dealing with increased enforcement activity as the effects of raising loan defaults lead to more lenders, investors, and mortgage loan servicers questioning appraisals.

More Licensees

When Fiscal Year 2007 closed on August 31, 2007 the State of Texas had a total of 153,161 licensed real estate brokers and salespersons 4,260 licensed inspectors, and 1,545 easement or right-of-way registrants. The number of individuals entering the business far exceeds the number leaving or retiring as a total of 19,022 new broker and salesperson licenses were issued in Fiscal Year 2007 and an additional 10,975 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, as of this report, every indication that the trend will continue in the immediate future as more Texans seek to obtain real estate licenses and a high percentage of licensees decide to renew. Over eighty-six percent of all brokers renewed their licenses in a timely fashion in FY2007, and approximately five of six experienced salespersons did the same.

Growth in Real Estate Licensees Over the Past Six Years

	FY02	FY03	FY04	FY05	FY06	FY07	6 Year Change
Transcript Evaluations	20,378	22,346	27,190	31,421	31,890	30,229	+48.7%
Original Applications	16,668	17,298	18,226	21,556	25,733	23,877	+43.3%
Individuals Examined	16,534	15,482	19,369	23,440	24,557	21,302	+28.8%
Licensed Salespersons	78,086	82,296	88,421	97,126	106,597	110,810	+41.9%
Licensed Brokers	39,659	39,366	39,691	40,437	41,335	42,351	+6.8%
Licensed Inspectors	2,399	2,599	3,077	4,037	4,093	4,260	+89.4%

The continuing influx of new licensees can be seen in the “pipeline” (table to the left) 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 six years has been substantial, resulting in an overall 41.9% increase in licensed salespersons.

While more individuals are attempting to obtain real estate licensure, the overall pass rate on the salesperson examination has increased. The overall broker pass rate increased from 91.4% in FY03 to 94.2% in FY2007 while the salesperson pass rate went from 77.6% three years ago to a pass rate of 85.2% in FY 2007. This is a good sign for continuing a high level of service and competency among real estate professionals in Texas. The overall pass rate for professional inspector candidates has also increased from only 45.0% in FY03 to 63.5% last year. Inspector candidates are limited to three attempts in a six month period while there is no limit on salesperson and broker candidates.

Fiscal Year 07 Applicant Examination Pass Rate

Broker	94.2%
Salesperson	85.2%
Professional Inspector	63.5%

FY07 License Renewal Rates

Broker Timely Renewal	86.73%
Salesperson 2 year License Renewal	83.13
Salesperson 1 year License Renewal	68.51

License renewal rates remained in line with recent 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 FY2006 while nearly three-fourths of newer salespersons (those still under Salesperson Annual Education) applied to renew their real estate license. These percentages do not include the 10,975 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. Approximately 20% of all real estate licenses (30,538) are “inactive,” held by those who wish to retain a license for possible future use.

FY07 Percentage of Transactions Completed Online

License Applications	77.9%
Broker License Renewals	93.1
Salesperson Renewals	87.9

Online Services

The Texas Real Estate Commission has long been dedicated to offering 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) is widely regarded as one of the better regulatory websites. 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.

More than 32 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 2007, thousands of transactions were conducted online by individuals seeking to apply or renew a license with the Texas Real Estate Commission. In Fiscal Year 2007, over 87% of all license renewals were made over the Internet and paid by credit card while more than 75% of all license applications come via the Internet and the TexasOnline system.

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 over the past year from 1,234 in Fiscal Year 2006 to 1,545 at the end of Fiscal Year 2007.

Companies desiring to sell residential service contracts (home warranties) in Texas must be licensed with TREC under the provisions of the Residential Service Company Act. As of August 31, 2007, there were 23 residential service companies authorized to provide contracts in Texas, up from 21 a year ago.

Any developer selling 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

Other Registrants

	FY 2003	FY 2007
Easement or Right-of-Way Agents	810	1,545
Real Estate Instructors	1,257	3,295
Pre-Licensure Proprietary Schools	42	54
Continuing Education Providers	160	269
Registered Timeshare Properties	236	317
Residential Service Companies	18	23

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. The Texas Legislature with assistance from various industry representatives and 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.

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 obtaining approval for each continuing education course they wish to offer. At the end of Fiscal Year 2007 there were 67 approved providers of pre-licensure education in Texas and 290 approved continuing education providers. These totals reflect a sizeable increase 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).

Consumer Services

<i>Complaint Matters Opened</i>		
	<i>FY03</i>	<i>FY07</i>
Public Complaints	1,684	2,020
Administrative Matters	1,419	1,320
License Application Investigations	348	781
Moral Character Determinations	240	409

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 4,202 in Fiscal Year 2007 - an increase of 74.3% in six 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.

The Enforcement Division opened 4,202 complaint matters in FY2007, consisting of both consumer concerns (44% of complaints) and administrative issues (56% of complaints) such as bad checks, late MCE, failure to comply with license requirements, or failure to provide required information, and investigations when an application or renewal indicated 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 2007, there were 544 instances of a reprimand, 12 licensees placed on probation, 4 license suspensions, 73 license revocations and 13 licenses surrendered, and 150 matters resulting in a fine or administrative penalty. Additionally, Enforcement investigations resulted in the issuance of 109 probationary licenses. While many of these outcomes were the result of a hearing conducted before the agency's Administrative Law Judge, others were the result of an agreed order between the Enforcement Division and the licensee, similar to a plea bargain in a criminal case. TREC favors agreed resolutions as a more efficient way to resolve cases.

Fiscal Issues

In the past fiscal year, the Texas Real Estate Commission collected over twenty 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.

In FY 2007 the Commission and the Appraiser Board collected \$20,016,032. After deduction for payments to other entities, such as the Texas A & M Real Estate Center, Texas Online, and the recovery funds administered by the Commission, approximately \$3.2 million was available as general revenue for use by the state.

Check out the TREC web site www.trec.state.tx.us for *ONLINE* filing of applications and renewals, useful consumer information and downloads, and FAQs concerning Enforcement, Inspectors, and Education.

RULE ACTIONS FROM DECEMBER 10, 2007 MEETING OF THE TEXAS REAL ESTATE COMMISSION

RULE NO.	EFFECTIVE DATE/ACTION	SUMMARY OF ADOPTED RULE
Chapter 533	12/30/2007 ADOPTED	Adopts the repeal on a permanent basis of current rules concerning Practice and Procedure regarding hearings and rehearings pursuant to amendments to Chapter 1101 by SB 914.
§535.209	12/30/2007 ADOPTED	Adopts the repeal on a permanent basis of current rules concerning the licensing of corporations and limited liability companies as inspectors pursuant to amendments to Chapter 1102 by HB 1530.
Chapter 533	12/30/2007 ADOPTED	Adopts on a permanent basis new rules concerning Practice and Procedure regarding hearings and rehearings. Allows agency to comply with new law transferring the hearing function to the State Office of Administrative Hearings.
§535.42	12/30/2007 ADOPTED	Adopts on a permanent basis amendments which remove language concerning TREC administrative law judge.
§535.51	12/30/2007 ADOPTED	Adopts on a permanent basis by reference revisions to two late renewal forms for sales licenses and two late renewal forms for brokers licenses to comply with new law requiring late renewal penalties established in SB 914. Adopts by reference of the application for a sales license and the application for a sales license by a currently licensed broker (step-down form) reflecting the change in the sales license application fee from \$50 to \$75.
§§535.61-535.65	12/30/2007 ADOPTED	Adopts on a permanent basis amendments to §§535.61 and 535.63, which allow TREC by rule to waive examination and education requirements for licensees filing late renewals within a prescribed timeframe. The amendments to §535.62 provides that all TREC core courses that are offered by an alternative delivery method must be certified by a distance learning certification center that is acceptable by the commission. The amendments to §535.64 and §535.65 change references concerning the education provider bond from \$10,000 to \$20,000, and adopt by reference a revised bond form reflecting the increased amount as required by the new law.
§§535.71, 535.72	12/30/2007 ADOPTED	Adopts on a permanent basis amendments which provide that a licensee cannot receive credit for an online MCE course that is completed in less than 24 hours and revises a form to comply with this change.
§§535.91, 535.92, 535.94	12/30/2007 ADOPTED	Adopts on a permanent basis amendments which exempt a licensee who is also a state legislator from the requirement to complete 3 hours of legal update MCE course and remove language referring to TREC administrative law judge.
§535.191	12/30/2007 ADOPTED	Adopts on a permanent basis new rules which establish a schedule of administrative penalties and prioritize violations of the Act and Rules regarding real estate licensees.
§535.206	12/30/2007 ADOPTED	Adopts on a permanent basis a new rule and amendments which establish the composition and requirements for the Inspector Advisory Committee.
§535.208	12/30/2007 ADOPTED	Adopts on a permanent basis amendments which require proof of professional liability insurance or any other insurance that provides coverage for violations of Subchapter G of Texas Occupations Code, Chapter 1102 as required by that chapter to apply for a home inspector license and adopts by reference a form to use when supplying this proof.
§535.210	12/30/2007 ADOPTED	Adopts on a permanent basis amendments which remove fee provisions for corporate and LLC original applications and renewals for a professional inspector license. Establishes by rule a fee of \$30 for a transcript evaluation.
§535.211	12/30/2007 ADOPTED	Adopts on a permanent basis a new rule which establishes the requirements for professional liability insurance or any other insurance that provides coverage for violations of Subchapter G of Texas Occupations Code, Chapter 1102 as required by that chapter to apply for a home inspector license for home inspectors.
§535.212	12/30/2007 ADOPTED	Adopts on a permanent basis amendments to the rule to require experience and education to apply for a professional inspector license under the fast track method of licensing as amended at the October 8, 2007 meeting.

For text of the rules as they were filed with the Texas Register go to the web site at www.trec.state.tx.us

RULE ACTIONS FROM DECEMBER 10, 2007 MEETING OF THE TEXAS REAL ESTATE COMMISSION

RULE NO.	EFFECTIVE DATE/ ACTION	SUMMARY OF PROPOSED RULES
§535.215	12/30/2007 ADOPTED	Adopts on a permanent basis amendments which establish that an inspector can be placed on inactive status if the licensee cannot provide proof of professional liability insurance or any other insurance that provides coverage for violations of Subchapter G of Texas Occupations Code, Chapter 1102 as required by that chapter or if the insurance policy is not kept current.
§535.216	12/30/2007 ADOPTED	Adopts on a permanent basis amendments which provide that proof of professional liability insurance or any other insurance that provides coverage for violations of Subchapter G of Texas Occupations Code, Chapter 1102 as required by that chapter is required for application or renewal of a home inspector's license.
§535.224	12/30/2007 ADOPTED	Adopts on a permanent basis of amendments to remove a provision that allowed the commission to authorize the inspector committee to conduct administrative hearings or recommend the entry of final orders. Adds language concerning professional liability insurance or any other insurance that provides coverage for violations of Subchapter G of Texas Occupations Code, Chapter 1102 and establishes a basis for disciplinary action against a home inspector for failing to timely notify the commission of cancellation or non-renewal of the inspector's insurance.
§§537.30-31, 537.41, 537.47, and 537.50	12/30/2007 ADOPTED	Adopts amendments to Standard Contract Form TREC No. 23-7, New Home Contract (Incomplete Construction); Standard Contract Form TREC No. 24-7, New Home Contract (Completed Construction); Standard Contract Form TREC No. 34-3, Addendum for Property Located Seaward of the Gulf Intracoastal Waterway; Standard Contract Form TREC No. 40-3, Third Party Financing Condition Addendum; and new Standard Contract Form TREC No. 43-0, Addendum Containing Required Notices Under §5.016, §420.001 and §420.002, Texas Property Code. The disclosure on page 8 of TREC No. 23-7, New Home Contract (Incomplete Construction) and TREC No. 23-7, New Home Contract (Completed Construction) required by §27.007(a), Texas Property Code, is revised because the disclosure was amended by House Bill 3147, 80th Legislature, R.S. (2007). TREC No. 34-3, Addendum for Property Located Seaward of the Gulf Intracoastal Waterway, was revised to reflect changes that were made to the disclosure under House Bill 2819, 80th Legislature, R.S. (2007). On page 2 of TREC No. 40-3, Third Party Financing Condition Addendum, a reference to having HUD form 92564-CN signed and dated by the buyer was removed as the form no longer has a signature line. Paragraph B was changed to reference "TEXAS VETERANS LOAN". TREC No. 43-0, Addendum Containing Required Notices Under §5.016, §420.001 and §420.002, Texas Property Code, contains disclosures required by House Bill 1038, 80th Legislature, R.S. (2007) in cases where the seller may be subject to or exempt from the requirements of Title 16, Texas Property Code, regarding regis-
§539.140	12/30/2007 ADOPTED	Adopts on a permanent basis a new rule that establishes a schedule of administrative penalties and prioritizes violations of the Act and Rules concerning Residential Service Companies.

RULE NO.	EARLIEST POSSIBLE DATE OF ADOPTION	SUMMARY OF PROPOSED RULE
§535.141	2/25/2008 PROPOSED	Proposes amendments to 22 TAC §535.141(a) and (b) to clarify that the section applies to all persons licensed or registered by TREC, including persons licensed under Chapter 1102 and deletes references which are redundant or conflict with §1101.204. The new text in 22 TAC §535.141(b) is proposed to clarify that the commission may conduct a covert investigation and withhold information from the subject of the investigation relating to mortgage fraud pursuant Texas Government Code §402.031.



Disciplinary Actions

October, November and December 2007

Calendar of Events

Commission Meetings:

February 25, 2008
(Austin)

April 28, 2008
(Austin)

Broker-Lawyer Committee Meetings:

February 21-22, 2008
(Austin)

June 19-20, 2008
(Austin)

Inspector Committee Meetings: To be scheduled

Web site:

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

Phone

(800) 250-TREC (8732)
or

(512) 459-6544

Brooks, Larry Wayne, Jr. (Houston); license #497309

Revocation of broker license fully probated for five years, effective October 8, 2007; acted dishonestly and in bad faith in (1) preparing a lease for a buyer client to present to her lender to lead the lender to believe that a property she had deeded back in lieu of foreclosure (but was still appearing on her credit report) was actually an income-producing property and (2) suggesting to the client that she sign the lease and forward it to the lender as an authentic lease in order to improve her position in seeking financing for a new purchase, in violation of §§ 1101.652(b)(1) and 1101.652(b)(2) of the Texas Occupations Code

Alejos, George Limon (San Antonio); license #420683

Agreed revocation of broker license fully probated for four years and two months effective October 8, 2007; payment of \$46,733.55 made by the Texas Real Estate Recovery Trust Account toward satisfaction of a judgment against George Limon Alejos as provided by § 1101.655(a) of the Texas Occupations Code

Urban, Marcy (Georgetown); license #472864

Agreed reprimand of broker license, entered November 1, 2007; Agreed administrative penalty of \$1500, entered November 1, 2007; acting negligently or incompetently by failing to monitor the brokerage activities of a sponsored salesperson, in violation of § 1101.652(b)(1) of the Texas Occupations Code; allowing a sponsored salesperson who operated a leasing and property management business to commingle money that belongs to another person with the license holder's own operating account money, in violation of § 1101.652(b)(10) of the Texas Occupations Code; publishing or causing to be published an advertisement that misleads or is likely to deceive the public or tends to create a misleading impression by allowing a sponsored salesperson to make it appear that the salesperson and her unlicensed limited liability company were in charge of a brokerage business, in violation of § 1101.652(b)(23) of the Texas Occupations Code; and allowing a sponsored salesperson, without broker's involvement, to open and maintain an escrow account to hold monies belonging to others in connection with leasing and property management brokerage activities, in violation of 22 TAC § 535.159(f)

Bullock, Glenda Raye (Round Rock); license #398506

Agreed reprimand of salesperson license, entered November 1, 2007; Agreed administrative penalty of \$1500, entered November 1, 2007; acting negligently or incompetently in real estate brokerage activities, in violation of § 1101.652(b)(1) of the Texas Occupations Code; commingling money that belongs to another person with the brokerage firm's operating account money, in violation of § 1101.652(b)(10) of the Texas Occupations Code; publishing or causing to be published an advertisement that misleads or is likely to deceive the public or tends to cause a misleading impression by making it appear that the salesperson and her unlicensed limited liability company were in charge of a brokerage business, in violation of § 1101.652(b)(23) of the Texas Occupations Code; and without the involvement of her sponsoring broker, opening and maintaining an escrow account to hold monies belonging to others in connection with leasing and property management brokerage activities, in violation of 22 TAC § 535.159(f)

Robinson, Elton Ray (Brenham); license #Unlicensed

Agreed assessment of administrative penalty in the amount of \$2,500, entered November 2, 2007; Elton Ray Robinson acted, engaged in, and represented that he was a real estate broker or salesperson without first holding a license issued by the Texas Real Estate Commission by assisting in negotiations between sellers and buyers for the purchase of businesses that included some real property with the expectation or receipt of a consulting fee for his services, in violation of § 1101.351 of the Texas Occupations Code

Cavazos, John B (San Antonio); license #479882

Fully probated 36 month suspension of salesperson license, effective November 8, 2007; Plead guilty to the offense of engaging in organized criminal activity, a felony in which fraud is an essential element, in violation of § 1101.652(a)(1) of The Texas Occupations Code

Shoff, William B. (Pearland); license #446119

Agreed revocation of broker license, effective November 10, 2007; Broker entered a plea of guilty to a violation of 18 U.S.C. § 287, a felony offense of filing a false claim, in violation of § 1101.652(a)(1) of the Texas Occupations Code. The offense involved the broker charging commissions on the leasing of buildings on behalf of and as an employee of the United States of America even after being told by the USA's Ethics Office that he could not charge commissions involving the USA. Said commissions totaled approximately \$647,041.00

IDO Fort Worth, Inc. (Fort Worth); license #502709

Agreed assessment of administrative penalty of broker license in the amount of \$500, entered November 16,

2007; after the Texas Real Estate Commission's notification of a salesperson's license expiration, IDO Fort Worth, Inc. acted negligently by continuing to establish an association, by employment or otherwise, with the unlicensed person who acted as a real estate licensee, in violation of §§1101.652(b)(1) and (26) of the Texas Occupations Code

**Shawn, Sharon Frances
(Waxahachie); license #248233**

Agreed reprimand of broker license, entered November 27, 2007; Agreed administrative penalty of \$500, entered November 27, 2007; Ms. Shawn was the sponsoring broker and/or the designated officer/manager of a sponsoring broker that received the Texas Real Estate Commission's notifications that salespersons' licenses were expired or placed on inactive status and/or a corporate broker's license had expired and she continued to establish an association, by employment or otherwise, with the unlicensed persons and inactive salesperson who acted as real estate licensees, in violation of §1101.652(b)(26) of the Texas Occupations Code; and Ms. Shawn failed to notify the Commission in writing of the use of a real estate business name, in violation of §1101.652(b)(1) of the Texas Occupations Code

**Akbar, Shezad Tony
(Carrollton); license #553894**

Agreed reprimand of salesperson license, entered November 27, 2007; Agreed administrative penalty of \$250, entered November 27, 2007; after expiration of his sponsoring broker's license, Mr. Akbar's license was inactive and he continued to engage in the business of a real estate broker or salesperson, in violation of §1101.351(c) of the Texas Occupations Code; Mr. Akbar acted negligently when he continued to conduct real estate brokerage activities with a person as his partner whose salesperson license had expired, in violation of §1101.652(b)(1) of the Texas Occupations Code

**Gonzalez, Roberto V.
(Carrollton); license #547072**

Agreed reprimand of salesperson license, entered November 27, 2007; Agreed administrative penalty of \$500, entered November 27, 2007; after expiration of his salesperson license, Mr. Gonzalez continued to engage in the business of a real estate broker or salesperson, in violation of §1101.351(a) of Texas Occupations Code; Mr. Gonzalez failed to answer "yes" to the question regarding unlicensed activity on his subsequent late renewal application whereby he procured a license by making a material misstatement of fact in his application, in violation of §1101.652(a)(2) of the Texas Occupations Code; and Mr. Gonzalez acted negligently when he continued to conduct real estate brokerage activities with a person as his partner whose salesperson license was inactive, in violation of §1101.652(b)(1) of the Texas Occupations Code

**Davidson, Karen Jean
(Magnolia); license #493547**

Agreed reprimand of salesperson license, entered November 28, 2007; acting negligently or incompetently when representing a buyer, by failing to timely deliver earnest monies to the escrow agent and failing to forward the option fee to a seller, and commingling earnest money with her own funds, in violation of §1101.652(b)(1), (2), (9) and (10) of The Texas Occupations Code

**Kelty, Timothy Micheal
(Sulphur Springs); license #331040**

Agreed 1 month suspension of salesperson license fully probated for 2 years, effective November 29, 2007; acted negligently or incompetently in drafting multiple offers that included errors, such as indicating that farm and ranch accessories would be conveyed with the property, despite the seller not actually owning them, and failing to advise his seller client that certain terms of the contract were not as she desired, in violation of §1101.652(b)(1) of the Texas Occupations Code; acted dishonestly or in bad faith in leading his seller client to believe that, despite the language of the contract, the contract did not require her to convey the farm and ranch accessories if she did not own them, in violation of §1101.652(b)(1) of the Texas Occupations Code; worked in the name of the corporation while sponsored by the designated officer for a corporation (but not by the corporation itself), in violation of §1101.351(c) of the Texas Occupations Code

**Myrick, Kelly Diane
(Big Spring); license #513185**

Agreed 3 month suspension of salesperson license fully probated for 2 years, effective November 30, 2007; failed to follow proper intermediary procedures and offered opinions and advice despite not having made appointments, in violation of §§1101.560, 1101.652(b)(1), 1101.652(b)(7), and 1101.652(b)(33) of the Texas Occupations Code; added to promulgated forms provisions for which addenda had been promulgated by the Commission for mandatory use and failed to use a temporary lease when the circumstances required one, in violation of 22 T.A.C. § 537.11(c); when the parties executed an amendment to advance the closing date by seven weeks, failed to take appropriate action to amend the date of the contingency for sale of the buyers' other home, causing the contingency date to be seven weeks after the closing date, in violation of §1101.652(b)(1) of the Texas Occupations Code; used an outdated addendum, in violation of 22 T.A.C. § 537.46; when the buyers were unable to close by the amended closing date, told the seller, who had changed her mind about selling the property, that the original (later) closing date was still valid and that the seller would be in default if she refused to sell, in violation of §1101.654(a)(2) of the Texas Occupations Code and 22 TAC § 537.11(b)

**Dawson & Chao Real Estate LLC
(Houston); license #467248**

Agreed revocation of broker license, effective December 7, 2007; failure to repay the Real Estate Recovery Trust Fund in the amount of \$50,000 in partial satisfaction of a civil judgment against Respondent for allegations of Deceptive Trade Practices Act and fraud, in violation of §1101.655(a) of the Texas Occupations Code

McGuire, Daniel Bruce
(Coppell); license #420938

Agreed reprimand of salesperson license, entered December 27, 2007; Agreed administrative penalty of \$250, entered December 27, 2007; Mr. McGuire negligently wrote a false promise of a \$10,000 reward at the closing of his principals' transaction when the reward could not be redeemed at closing, in violation of §§ 1101.652(b)(1) & (2) of the Texas Occupations Code; Mr. McGuire, by not fully understanding the reward program, made a written false promise of a cash reward that was likely to have influenced his buyer principals to enter into a listing agreement when Mr. McGuire was unable and unwilling to keep the promise as he represented the reward in violation of § 1101.652(b)(5) of the Texas Occupations Code

Garcia, Johnny Joe
(Fort Worth); license #445437

Agreed reprimand of salesperson license, entered November 13, 2007 Administrative Complaint - after filing a late renewal application, Mr. Garcia failed to timely respond to the Commission's request for required more information required pursuant to §535.91(c) of the rules and Mr. Garcia made a material misstatement of fact in his application by failing to answer "yes" the question "Are there any criminal charges pending against you?" in violation of §1101.652(a)(2) of the Texas Occupations Code and 22 TAC §535.91(c)

Failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC §535.92(f)

Cockerell, Jeffry Dobbs (Houston); license #479291 Revocation of broker license, effective October 2, 2007	Holland, Patricia Ann (New Braunfels); license #423454 Revocation of salesperson license, effective October 8, 2007	Stahl, John Patrick (Amarillo); license #481863 Revocation of broker license, effective October 8, 2007	Brakefield, Shirley (Bryan); license #229684 Revocation of salesperson license, effective October 11, 2007
Leung, Winnie Yongyi (Sugar Land); license #504104 Agreed reprimand of salesperson license, entered October 31, 2007; Agreed administrative penalty of \$500, entered October 31, 2007	Kalish, Mark Ettie (Austin); license #464691 Agreed reprimand of salesperson license, entered October 31, 2007; Agreed administrative penalty of \$500, entered October 31, 2007	Tuszynski, Johan (Richardson); license #202228 Agreed reprimand of broker license, entered October 31, 2007; Agreed administrative penalty of \$500, entered October 31, 2007	Ryan, Jewel Cole (Beaumont); license #471952 Agreed reprimand of salesperson license, entered November 2, 2007; Agreed administrative penalty of \$500.00, entered November 2, 2007
Cruz, Melissa S. (Laredo); license #484076 Agreed reprimand of salesperson license, entered November 6, 2007; Agreed administrative penalty of \$500, entered November 6, 2007	Lehmann, Jimmy Dean (Hillsboro); license #440061 Agreed reprimand of salesperson license, entered November 8, 2007; Agreed administrative penalty of \$500, entered November 8, 2007	Cummings, David Malcolm (San Antonio); license #372857 Agreed reprimand of salesperson license, entered November 8, 2007; Agreed administrative penalty of \$500, entered November 8, 2007	James, Sherrilyn D. W. (De Soto); license #425480 Agreed reprimand of salesperson license, entered November 8, 2007; Agreed administrative penalty of \$500, entered November 8, 2007
Gomel, Cynthia Ann (Houston); license #504442 Agreed reprimand of salesperson license, entered November 14, 2007; Agreed administrative penalty of \$500, entered November 14, 2007	Casaretto, Patsy M. (Willis); license #202052 Agreed reprimand of broker license, entered November 14, 2007; Agreed administrative penalty of \$500, entered November 14, 2007	Allen, Ashley Eve (Dallas); license #502751 Agreed reprimand of salesperson license, entered November 14, 2007; Agreed administrative penalty of \$250, entered November 14, 2007	Montoto, Monika V. (De Soto); license #469589 Agreed reprimand of salesperson license, entered, November 16, 2007; Agreed administrative penalty of \$250, entered November 16, 2007
Miller, Frederick Alexander (Anne); license #343094 Agreed reprimand of broker license, entered November 21, 2007; Agreed administrative penalty of \$500, entered November 21, 2007	Cerda, Maria G. (Houston); license #468257 Agreed reprimand of salesperson license, entered December 18, 2007; Agreed administrative penalty of \$500, entered December 18, 2007	Knabe, Tim Martin (Watauga); license #416884 Agreed revocation of salesperson license fully probated for 9 months, effective December 21, 2007; Agreed administrative penalty of \$500, entered December 21, 2007	Sam, Sitha (Dallas); license #551882 Revocation of salesperson license, effective December 24, 2007
Misczak, Matthew Lawrence (Keller); license #501161 Revocation of salesperson license, effective December 28, 2007	Carrasquillo, Pedro Juan (Houston); license #487403 Revocation of salesperson license, effective December 28, 2007	Jones, Gregory Earl (Humble); license #531197 Revocation of salesperson license, effective December 28, 2007	Rodriguez, Wyndee Lynn (San Antonio); license #430234 Revocation of broker license, effective December 28, 2007
Calaforra, Emilio J. (Galveston); license #547430 Revocation of salesperson license, effective December 28, 2007	Johannessen, DeeJay R. (Arlington); license #485895 Revocation of salesperson license, effective December 28, 2007	Midgley, William David (Dallas); license #432327 Revocation of salesperson license, effective December 28, 2007	

Failing to pay the \$200 fee within the 60-day period provided by 22 TAC §535.92(f)
Failing to complete mandatory continuing education hours within the 60-day period provided by 22 TAC §535.92(f)

Culpepper, Cory Christine (Austin); license #476770 Agreed reprimand of salesperson license, entered November 8, 2007; Agreed administrative penalty of \$300, entered November 8, 2007	Huffines, Donald Blaine (Dallas); license #307774 Agreed reprimand of broker licensed, entered December 11, 2007; Agreed administrative penalty of \$500, entered December 11, 2007
---	---