



TREC Advisor

Texas Real Estate Commission ★ Volume 20, Number 1 ★ January 2009

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TREC Adopts New Inspector Rules and Form Effective February 1, 2009

At its meeting on October 27, 2008, the Texas Real Estate Commission adopted revised Standards of Practice for inspectors, as well as a new required inspection report form for 1- to 4-family residential property. These revisions, recommended by the Inspector Committee after three years of development, will take effect on February 1, 2009. The Inspector Committee created these revised rules and forms to better serve the public by giving consumers more information about property conditions and inspection limitations. Some of the more notable changes are described below.

The newly adopted inspection report form looks very similar to the current form, with a few important changes. The explanatory text on the first page of the report form has been expanded to two pages to provide more information about the inspection process. That text also explains the “Deficiency” check box, which will replace the “Not Functioning or In Need of Repair” box. Inspectors will no longer be required to report issues as “Not Functioning or In Need of Repair.” Instead, they will report these issues as “Deficient” or “Deficiencies.”

The Standards of Practice (the “Standards”) have been rearranged to match the order of the major systems that are subject to inspection and are covered by the report form. The Standards require inspectors to report certain items for informational purposes only and other items only if they are found to be deficient. Some of the items inspectors will be required to report (regardless of whether they are deficient) are as follows:

- the type of foundation, roof covering, branch circuit conductors, and heating and cooling systems
- the energy source of the heating system, cooling system, and water heater
- the vantage point from which the crawl space, attic, and roof were inspected, as well as any levels of the roof that were not accessed
- evidence of previous repairs to roofing materials
- evidence of water penetration
- the presence and approximate average depth of attic insulation and thickness of vertical insulation, where visible
- static water pressure
- the location of the water meter and main water supply valve
- water heater capacity

Inspectors will also be required to report, by marking the “D” box on the form, deficiencies they observe. The Inspector Committee sought to make the new Standards of Practice more complete by including a wider range of deficiencies in many of the sections in order to give buyers a greater understanding of the condition of the property. For instance, where possible, inspectors will be required to inspect roof covering fasteners and report as “Deficient” missing, inappropriate, or inappropriately installed fasteners. When it is not possible to observe the roof covering fasteners (for instance, because lifting shingles may cause damage to the roof covering), inspectors must tell the client at the earliest practicable time that the item was not inspected and must note in the written report the reason the item was not inspected.

The current list of unsafe conditions, including excessive baluster spacing and the absence of safety glass at hazardous locations, was increased to include the absence of properly functioning arc fault circuit interrupter (AFCI) devices at required locations (family/living rooms, dining rooms, libraries, dens, bedrooms, sunrooms, recreation rooms, closets, hallways, or similar rooms or areas). Unlike ground fault circuit interrupter (GFCI) devices, which have long been required by building codes to protect occupants from risk of shock, AFCIs have been introduced more recently to protect property from the risk of fire caused by sparks. Form OP-1, *Texas Real Estate Consumer Notice Concerning Hazards and Deficiencies*, addresses the safety component of the inspection. The Commission approved this form for voluntary use by all licensees.

Review the new rules and forms on the TREC website at <http://www.trec.state.tx.us/inspector>.



TEXAS REAL ESTATE
COMMISSION

Meeting Highlights

October 27, 2008

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.

The Texas Real Estate Commission held its regularly scheduled meeting at the TREC headquarters in Austin, Texas on Monday, October 27, 2008. Chairman John D. Eckstrum presided.

During staff reports new employees were introduced: Amy Johnson in the Licensing Department and Rebecca Jones in the Cashier Department.

The Commission proposed the adoption of ten revised applications, updated to clarify certain licensure requirements.

The Commission proposed the adoption of amendments to §535.52 and §541.1, which would clarify the conduct that the commission believed tends to demonstrate that an applicant for a license or registration with the commission does not meet the requisite honesty, trustworthiness, and integrity required.

The Commission adopted the repeal of §535.223 and §§535.227-535.231. The Commission also adopted new §535.222, §535.223 and new §§535.227-535.233 with an effective date of February 1, 2009.(See first page for details).

The Commission proposed two new addendum. After withdrawing the previously proposed Addendum for Reservations of Oil, Gas, and Other Minerals as recommended by the Broker-Lawyer Committee, a revised Addendum for Reservations of Oil, Gas, and Other Minerals was proposed along with a Short Sale Addendum.

There was discussion concerning the selection of a vendor for recommendations on a TREC licensing and information system.

The Commission discussed having quarterly meetings to aid the agency's plans to reduce travel expense.

The Commission approved three proposals for decision from the State Office of Administrative Hearings.

The next scheduled meetings of the Commission will be October 27, 2008, and December 15, 2008, at the TREC headquarters in Austin, TX.

Background Check Fee for Renewals

All licensees who have been fingerprinted for TREC will eventually have to pay an additional fee for a subsequent background check when renewing their licenses.

Licensees who were fingerprinted for a 2008 renewal, application or late renewal, and whose current license expiration is March 31, 2009 or thereafter, must pay the renewal fee and an additional fee (currently **\$19.25**) for a subsequent background check to renew the license. Renewal fees will be returned to licensees who submit incorrect fee amounts and the license will expire if the correct amount is not timely received.

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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:

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(512) 459-6544 or (800) 250-TREC
<http://www.trec.state.tx.us>

New Inspector Rules and Form

Frequently Asked Questions

Why did “Not Functioning or In Need of Repair” change to “Deficiency?”

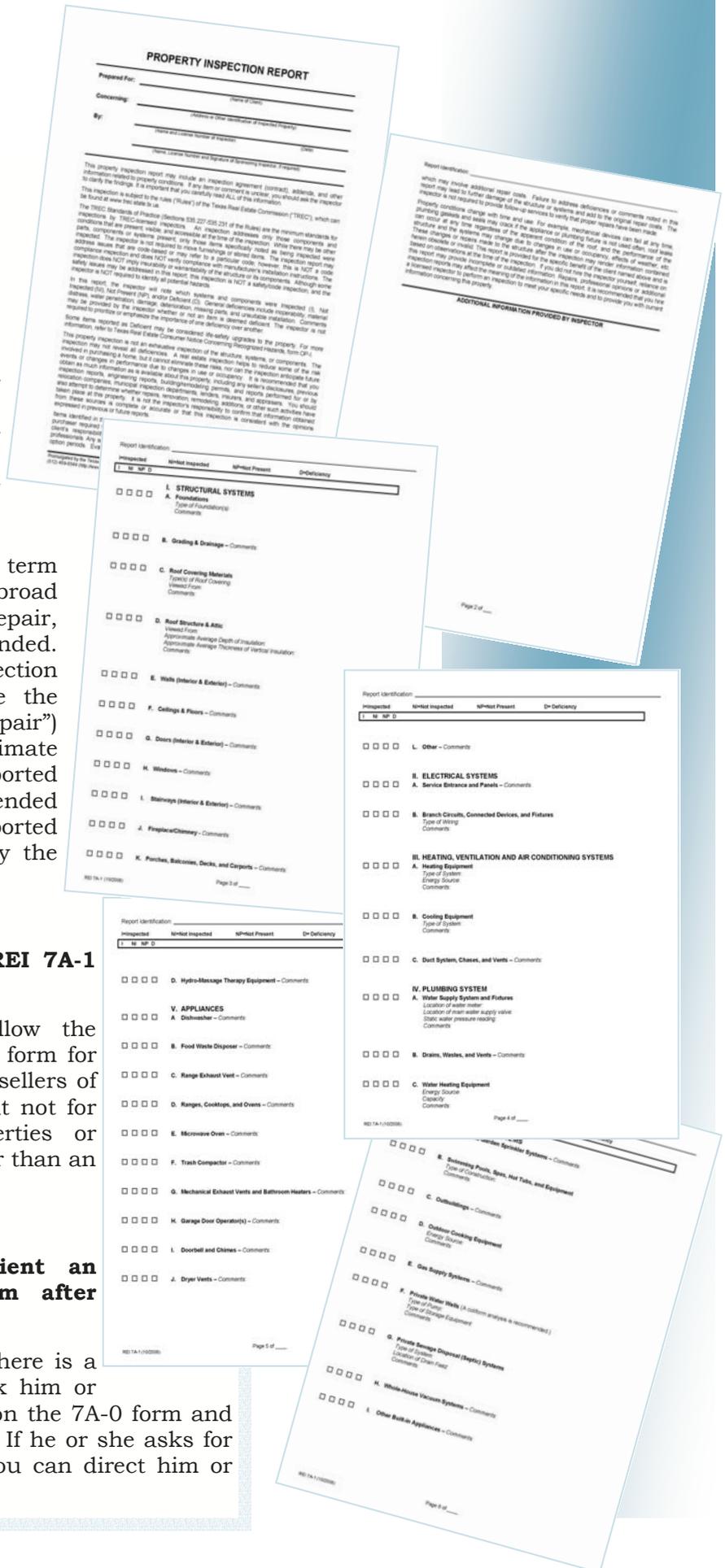
Not all problems that should be reported will require repairs. Many safety issues do not require a “repair,” but rather an upgrade or safety modification. For instance, the original electrical outlet in the kitchen of a house built in 1980 may be working properly and doesn’t need any repair, but GFCI outlets are now being used in kitchens, and it is recommended that the old outlets be upgraded to GFCI outlets. The term “deficiency” better describes the broad category of issues in which repair, replacement, or an upgrade is recommended. The “D” (“Deficiency”) box on the inspection report form should be used just like the “R” (“Not Functioning or In Need of Repair”) box has been used in the past. The ultimate decision what to do with the reported information, such as making recommended repairs or to simply “live with” a reported deficiency, is a decision to be made by the person for whom the report is prepared.

Are the Standards of Practice and REI 7A-1 form required for all inspections?

No. Inspectors are required to follow the Standards and use the standard report form for all inspections performed for buyers or sellers of 1- to 4-family residential properties, but not for inspections of other kinds of properties or inspections performed for purposes other than an anticipated sale or purchase.

What if an inspector gives a client an inspection report on the old form after February 1, 2009?

You should inform the inspector that there is a new form and new Standards, and ask him or her to provide a new inspection report on the 7A-0 form and in accordance with the new standards. If he or she asks for more information about this change, you can direct him or her to the TREC website.



TREC Updates and Reminders

TREC is providing the following updates and reminders relating to TREC licensing and education processes and procedures. Please share the following information. Always refer to the TREC website for updates and current information.

▣ GENERAL TOPICS

Hurricane Ike Extension: The Texas Real Estate Commission and Texas Appraiser Licensing and Certification Board adopted emergency rules for licensees who work or live in the 29 counties declared by Governor Perry to be disaster areas as a result of Hurricane Ike. Real estate brokers, salespersons, home inspectors, and appraisers who live in these counties and were impacted by Hurricane Ike will have an additional four months to renew licenses expiring between September 30, 2008, and February 28, 2009. They will have additional time to file renewal applications, pay renewal fees, complete required continuing education, and provide required fingerprints. Also, pending license applicants whose applications expire between September 7, 2008, and February 28, 2009, will be given an additional four months to successfully complete their examinations.

Those eligible for the four-month extension must live or have their principal place of business in one of the following counties: Angelina, Austin, Brazoria, Chambers, Cherokee, Fort Bend, Galveston, Grimes, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Madison, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, and Washington. Complete details and FAQs may be found at the following TREC website address: <http://www.trec.state.tx.us/faq/faq-HurricaneIke.asp>



Fingerprint Requirements: Please recall that fingerprints are required for anyone submitting an application for an initial broker or salesperson license on or after January 1, 2008. In addition, licensees renewing on or after this date are required to provide fingerprints for their first renewal after January 1, 2008. The fingerprint requirement does not apply to inspectors. Licensees may get fingerprinted up to one year prior to their renewal date. To schedule fingerprinting go to the TREC website and download the FAST Print Pass form. Contact IBT to schedule an appointment at one of their locations. A link to the IBT telephone number and locations can be found at the TREC website: [http://](http://www.trec.state.tx.us/FASTPrintPass/)

www.trec.state.tx.us/FASTPrintPass/

Remind Licensees to Pay Renewal Fees: Licensees must pay renewal fees prior to the expiration date of their license or the license will expire. Many licensees are timely completing their continuing education or fingerprint requirements but are failing to pay the renewal fee. If the license is allowed to expire, a late renewal application must be filed as well as a Salesperson Sponsorship form (if the licensee is a salesperson). Because a late renewal is treated as a new application a licensee may encounter delays in getting their license if there are complaints, unlicensed activity (practicing with an expired license), or other background issues that need to be referred to Enforcement for review and possible action.

Pass/Fail Ratios: The Commission is required to publish proprietary school exam pass rate data on the TREC website by September 1, 2009. Rules were recently adopted that clarify that the last core course taken from a TREC approved proprietary school within 2 years of the date the person filed an education evaluation with the Commission will be used to collect the data. Courses taken at schools that are not accredited by TREC, such as colleges and universities, or courses that were taken more than 2 years from the date the person filed the evaluation will not be used to calculate a proprietary school's pass rate. For example, if the last core course the applicant took was at a college or university, that applicant's examination pass/fail data will not be counted. Similarly, if the

applicant took their last core course at a proprietary school but it was completed more than 2 years before the applicant filed their education evaluation with TREC, the applicant's pass/fail data will not be counted.

Education Advisory Committee: The first meeting of the Education Advisory Committee was held on October 3, 2008. The Committee discussed items relating to the testing, reporting and adequacy of current MCE requirements; MCE online and distance learning; instructor qualifications, training and oversight; and the correlation between MCE and complaints. Visit the TREC website to learn when future Committee meetings are scheduled and for an update on any recommendations the Committee may make to the Commission.

Increase in Exam Fees: TREC has entered into a new contract with Psychological Services, Inc. (PSI) to administer the Texas real estate broker, sales, and inspector exams. Effective September 1, 2008 the exam fee for real estate and inspector licensees was increased from \$59 to \$61.

MCE TOPICS

Electronic Filing of MCE Course Completion Information: All MCE providers are urged to report licensee course completion information to TREC electronically. The electronic transmission of this data will quickly and accurately facilitate the process of course completion information. Please contact tom.watson@trec.state.tx.us for details on how to accomplish this task.

Changes to Late MCE Reporting: Revision to §535.92(f) of the Commission rules change the procedure for licensees who timely pay their renewal fee but who do not complete their MCE by their current renewal date. A licensee must pay a \$200 fee to defer completion of MCE for 60 days after the renewal date. Failure to pay the deferral fee and complete the MCE requirements within the 60-day period will result in the licensee being placed on INACTIVE status. During this time a licensee must cease doing business. If the licensee is a broker, all salespersons sponsored by that broker will revert to inactive. To return to active status a licensee must complete the MCE; pay the \$200 deferral fee AND a \$250 late reporting fee (total \$450); as well as submit the appropriate return to active status form: Application for Broker to Return to Active Status (if a broker) OR Salesperson Sponsorship Form (if a salesperson) and \$20 filing fee. Complete details may be found at the TREC website.

How to Determine if a Licensee is Under SAE or MCE: A licensee is under SAE if they have less than 270 hours of real estate courses on record at TREC. The 270 hours must consist of at least 210 hours of core real estate course hours (see the TREC website for a list of required core courses) and 60 real estate related hours. The 60 related hours may include acceptable college courses, core real estate courses, or MCE courses. After the 270 hours have been met a licensee immediately becomes subject to MCE requirements and must comply with them at their next and subsequent renewals. This occurs even if the 270 hour requirement has been met prior to their first renewal date. When in doubt about SAE or MCE, licensees should contact TREC via telephone or email at lic-info@trec.state.tx.us.

24 Hour Online MCE Rule: The 24 hour MCE rule has been in effect since September 1, 2007. Please remember that a licensee who takes an online MCE course will not be allowed to complete an online course in less than 24 hours. If a licensee has paid their renewal fee and begins an online MCE course for renewal purposes on the date their license expires, credit WILL NOT be awarded for completing the course on that day (regardless of how many credit hours the course awards). If this occurs, the licensee's MCE will be considered late and a \$200 deferral fee will be assessed.

The Texas Real Estate Commission periodically receives complaints from Texas residents who have purchased residential service contracts (home warranties) from companies which are not currently licensed by the Commission. It is important to remember that Section 1303.101 of the Residential Service Company Act (RSC Act) requires a residential service company to obtain a license prior to issuing contracts in the state of Texas. A consumer who purchases a residential service contract from an unlicensed company will not benefit from the regulatory authority of the Commission if the consumer has a complaint against the company. For more information, the RSC Act and a list of currently licensed residential service companies, please go to the Commission's website at www.trec.state.tx.us/licenses/RSC_info.asp.

RULE ACTIONS FROM OCTOBER 27, 2008 MEETING OF THE TEXAS REAL ESTATE COMMISSION

RULE NO.	EFFECTIVE DATE	SUMMARY OF ADOPTED RULE
<i>For text of the rules as they were filed with the Texas Register go to the web site www.trec.state.tx.us</i>		
§535.64 (amend)	11/17/2008 ADOPTED	The amendments to §535.64 address the requirements of Texas Occupations Code §1101.301 and .304 regarding the collection of exam passage rate data on graduates of TREC-accredited real estate schools. The amendments clarify that the last course taken for purposes of the data to be collected is the last core course taken from a TREC-accredited provider within 2 years of the date the person filed an education evaluation with the commission. Courses taken at schools that are not accredited by TREC, such as colleges and universities, will be not be collected or counted. The amendments also clarify that each type of licensing exam that a graduate takes for the first time will have a school affiliation unless the last core course taken by the applicant was taken at a school that was not TREC-accredited, or the course was taken more than 2 years before the date the graduate submitted an education evaluation to the commission.
§535.101 (amend)	11/17/2008 ADOPTED	The amendments increase the examination fee for salesperson and broker applicants from \$59 to \$61. The amendment modifies the examination fee to reflect the cost under the new contract for examination administration services effective September 1, 2008.
§535.210 (amend)	11/17/2008 ADOPTED	The amendments increase the examination fee for home inspector applicants from \$59 to \$61. The amendment modifies the examination fee to reflect the cost under the new contract for examination administration services effective September 1, 2008.
§535.222 (new)	2/1/2009 ADOPTED	The new rule clarifies the inspection reporting requirements as recommended by the Texas Real Estate Inspector Committee. The rule clarifies that all inspections performed pursuant to an inspector license issued by TREC must be reported in writing and establishes general requirements regarding information contained in the report and delivery to the client.
§535.223 (repeal)	2/1/2009 ADOPTED	The subjects addressed in this section will be covered in new §535.222 and §535.223. TREC is simultaneously proposing as part of the Real Estate Inspector Committee comprehensive review and recommendations regarding inspector standards of practice and reporting requirements.
§535.223 (new)	2/1/2009 ADOPTED	The new rule adoptS by reference a revised standard inspection report form. TREC has a statutory duty to adopt standard inspection report forms and to adopt rules requiring licensed inspectors to use the report forms under Senate Bill Number 1100, 75th Legislature (1997). The new rule also clarifies when the form is required and how it may be modified by licensees and corresponds to proposed revisions to the inspector standards of practice.
§§535.227-535.231 (repeal)	2/1/2009 ADOPTED	The subjects addressed in these sections will be covered in new §§535.227-535.233 and the repeal of the existing rules is necessary to avoid confusion and repetition.
§§535.227-535.233 (new)	2/1/2009 ADOPTED	The new rules divide the standards of practice for inspectors into seven sections by providing two additional sections and contain a number of substantive changes recommended by the Texas Real Estate Inspector Committee, an advisory committee of six professional inspectors and three public members appointed by TREC.
Generally, the proposed new sections rearrange the current standards of practice, listing the systems, components, and items in a home which the inspector must include in an inspection unless the inspector's client agrees to limit the scope of the inspection.		
New §535.227 addresses general provisions which include definitions, the scope, and the departure provisions of an inspection. New §535.228 addresses minimum inspection requirements for structural systems. New §535.229 addresses minimum inspection requirements for electrical systems. New §535.230 address minimum inspection requirements for heating, ventilation, and air conditioning systems. New §535.231 addresses minimum inspection requirements for plumbing systems. New §535.232 addresses minimum inspection requirements for appliances. New §535.233 addresses minimum inspection requirements for optional systems.		
§§537.21-.23, .26-.27, .33, .35, .40, .46, .48 and new §537.51	11/17/2008 ADOPTED	The amendments to 22 TAC §§537.21-.23, .26-.27, .33, .35, .40, .46, .48 correct the agency web address from www.state.tx.us to www.trec.state.tx.us . New 22 TAC §537.51 concerning Standard Contract Form TREC No. 44-0 proposes to adopt by reference a new TREC addendum for reservation of oil, gas, and other minerals. The proposed addendum was withdrawn.

RULE ACTIONS FROM OCTOBER 27, 2008 MEETING OF THE TEXAS REAL ESTATE COMMISSION**RULE NO. EARLIEST DATE OF ADOPTION****SUMMARY OF PROPOSED RULE***For text of the rules as they were filed with the Texas Register go to the web site www.trec.state.tx.us*

§534.2 (amend)	12/15/2008	The proposed amendments to §534.2 change the title to the section and amend the rule to clarify that the processing fee for dishonored payments does not only apply to dishonored checks but to any other types of dishonored payments such as a charge back to a credit card.
§535.51 (amend)	12/15/2008	The proposed amendments to §535.51 adopt by reference ten revised application forms. The amendments are proposed to clarify and, when possible, simplify certain licensure requirements for applicants and renewing licensees. All ten forms revise the language of the question regarding the criminal background of the applicant, designated manager, or designated officer to clarify that deferred adjudication must be disclosed to the Commission. Form BLC-6, Application for a Real Estate Broker License by a Corporation, is also updated to reflect current terminology regarding corporate records as amended by the Texas Business Organizations Code. Form BLR-9, Application for Late Renewal of a Real Estate Broker License, is also updated to simplify the fee structure by eliminating a separate category of fees for expired licensees who are applying for late renewal after the license expired under a previous fee structure. Form BLRC-6, Application for Late Renewal of Real Estate Broker License by a Corporation, is also updated both to incorporate the corporate terminology changes of form BLC-6 and to eliminate the separate category of fees as in form BLR-9. Form SLR-10, Application for Late Renewal of Real Estate Salesperson License, is also updated to eliminate the separate category of fees as in form BLR-9. Form BLLLC-6, Application for Real Estate Broker License by a Limited Liability Company, is also updated to reflect current terminology regarding records of limited liability companies as amended by the Texas Business Organizations Code. Form BLRLLC-6, Application for Late Renewal of a Real Estate Broker License by a Limited Liability Company, is also updated both to incorporate the limited liability company terminology changes of form BLLLC-6 and to eliminate the separate category of fees as in form BLR-9.
§535.52 (amend)	12/15/2008	The proposed amendments to §535.52 clarify the conduct that the commission believes tends to demonstrate that an applicant for a license or registration with the commission does not meet the requisite honesty, trustworthiness, and integrity required by Texas Occupations Code Chapters 1101 and 1102.
§535.400 (amend)	12/15/2008	The amendments are proposed to adopt by reference two revised forms to clarify certain licensure requirements for applicants. Both forms revise the language of the question regarding the criminal background of the applicant, designated manager, or designated officer to clarify that deferred adjudication must be disclosed to the Commission. Form ERW 2-3, Application For Easement Or Right-of-Way Agent Registration For A Business, is also updated to reflect current terminology regarding corporate records as amended by the Texas Business Organizations Code.
§537.51, §537.52 (amend)	12/15/2008	New 22 TAC §537.51 proposes to adopt by reference a new TREC addendum for reservation of oil, gas, and other minerals. The proposed addendum would be used in situations where a seller in a real estate transaction wishes to reserve all or an identified percentage interest in the mineral estate owned by the seller, as defined in the addendum. New 22 TAC §537.52 proposes to adopt by reference a new TREC short sale addendum. The proposed addendum would be used in transactions where the seller requires the consent of the lienholder to sell the property and the lienholder agrees to accept the seller's net proceeds in full satisfaction of seller's liability under the mortgage loan.
§541.1 (amend)	12/15/2008	The proposed amendments to §541.1 clarify the types of criminal offenses that the commission believes relate to the duties and responsibilities of a real estate broker, salesperson, easement or right-of-way agent, professional inspector, real estate inspector, or apprentice inspector in that the offenses tend to demonstrate the person's inability to represent the interest of another with honesty, trustworthiness, and integrity required by Texas Occupations Code Chapters 1101 and 1102.



Disciplinary Actions September-November 2008

Flores, Malissa Monique
(Kempner); License #530634

Revocation of salesperson license, effective September 24, 2008; failing within a reasonable time to make good a check issued to the Commission and pay the processing fee, in violation of §1101.652(a)(4) of the Texas Occupations Code; failing to pay the check processing fee within 15 days after the Commission has mailed the request for payment, in violation of 22 TAC §534.2(a)

Karpas, Inc.
(Houston); License #452167

Agreed reprimand of broker license, entered September 18, 2008; Agreed administrative penalty of \$1,000, entered September 18, 2008; failing to designate one of the corporation's officers as its agent for purposes of licensing, in violation of §1101.355(a)(1) of the Texas Occupations Code; failing to obtain the written consent from each party to act as an intermediary in the transaction and failing to state the source of any expected compensation to the broker in the consent(s), in violation of §1101.559(a) of the Texas Occupations Code; acting negligently or incompetently in formation, authorization and conduct in intermediary relationship between the parties and failing to properly supervise the real estate brokerage activity of a sponsored salesperson, in violation of §1101.652(b)(1) of the Texas Occupations Code; and failing to make clear to all parties to a real estate transaction the party for whom the license holder is acting in formation, authorization and conduct in intermediary relationship between the parties, in violation of §1101.652(b)(7) of the Texas Occupations Code

Masinter, Mark Louis
(Dallas); License #354908

Reprimand of broker license, entered September 18, 2008; Mr. Masinter was the sponsoring broker for a salesperson whose license was revoked pursuant to a Commission Final Order. The Final Order was properly mailed to Mr. Masinter and the salesperson. Through one of his employees, Mr. Masinter and the salesperson failed to actually receive the Final Order. After the date of revocation, the salesperson continued to engage in real estate brokerage services as an associate of Mr. Masinter for approximately less than a 6 month period of time. During that time period, Mr. Masinter's conduct was negligent and he had established an association by employment or otherwise with a person other than a license holder who was expected or required to act as a license holder, in violation of §§1101.652(b)(1)&(26) of the Texas Occupations Code

Latson, Jodi Leonore
(Houston); License #N/A

Assessment of administrative penalty of \$2,000, entered September 18, 2008; Jodi Lenore Latson acted, engaged in and represented that she 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 real property with the expectation or receipt of valuable consideration, in violation of §1101.351 of the Texas Occupations Code

Yuan, Shui-Pyng
(Dallas); License #400259

Agreed reprimand of broker license, entered September 10, 2008, Agreed administrative penalty of \$500, entered September 10, 2008; negligent supervision and training of a sponsored salesperson, in violation of §1101.652(b)(1) of the Texas Occupations Code

Homecity, Inc.
(Austin); License #485005

Agreed reprimand of broker license, entered September 10, 2008; negligence, paying a commission to a sponsored individual whose license had expired, and for establishing an association with an unlicensed individual who was expected or required to act as a license holder, in violation of §§1101.652(b)(1),(11), and (26) of the Texas Occupations Code

Gharbi, Mohammad Hadi
(Austin); License #403589

Agreed revocation of broker license, effective September 2, 2008; being convicted in federal court of five felonies in all of which fraud is an essential element and the convictions have been affirmed on appeal, in violation of §1101.652(a)(1) of the Texas Occupations Code

Cubria, Jose Luis
(Houston); License #464738

Agreed 3 month suspension of salesperson license, effective September 1, 2008, beginning November 1, 2008; the remaining 30 days probated for 6 months; agreed administrative penalty of \$1,500, entered September 1, 2008 failing to obtain the written consent from each party to act as an intermediary in the transaction and failing to state the source of any expected compensation to the broker in the consent(s), in violation of §§1101.559(a) of the Texas Occupations Code; acting negligently or incompetently in formation, authorization and conduct in intermediary relationship between the parties, failing to address in writing needed repairs prior to or at closing and in completing contract forms, in violation of §1101.652(b)(1) of the Texas Occupations Code; engaging in conduct that is dishonest or in bad faith or that demonstrates untrustworthiness in formation, authorization and conduct in intermediary relationship between the parties, representing repairs would be made when in fact they were not and in completing contract forms, in violation of : §1101.652(b)(2) of the Texas Occupations Code; by pursuing a continued and flagrant course of misrepresentation or makes false promises through an agent or salesperson, through advertising or otherwise, in violation of §1101.652(b)(6) of the Texas Occupations Code; and by failing to make clear to all parties to a real estate transaction the party for whom the license holder is acting in formation, authorization and conduct in intermediary relationship between the parties, in violation of §1101.652(b)(7) of the Texas Occupations Code

**Macomber, Michael David
(Houston); license #524908**

Agreed Revocation of salesperson license, effective October 10, 2008; entering a plea of guilty in which fraud is an essential element, where the time for appeal has lapsed, in violation of §1101.652(a)(1) of the Texas Occupations Code; failing to notify the Commission no later than the 30th day after entry of a guilty plea to a felony offense and the time for appeal has elapsed, in violation of §1101.652(a)(9) of the Texas Occupations Code; and pursuant to §541.1 of the Rules of the Texas Real Estate Commission the first degree felony criminal offense of false statement to obtain credit is directly related to the occupation of a licensed real estate salesperson, in that it demonstrates an inability to represent the interest of another with honesty, trustworthiness, and integrity

**Utsey, James Dalton II
(Waxahachie); license #419554**

Agreed administrative penalty of \$500, entered October 14, 2008; acting negligently or incompetently in supervising a sponsored salesperson, in violation of section 1101.652(b)(1) of the Texas Occupations Code. Salesperson, though not "authorized" to perform property management, never the less did so without broker being aware

**Urbanic, Simon Louis
(League City); license #487726**

Agreed reprimand of salesperson license, entered October 21, 2008; Agreed administrative penalty of \$250, entered October 21, 2008; procuring a license by making a material misstatement of fact in several renewal applications to obtain renewal of license found to be false when made, in violation of §1101.652(a)(2) of the Texas Occupations Code

**Warranty Global Group, Inc.
(Addison); license #145**

Agreed administrative penalty of \$750, entered October 30, 2008; failing to timely file its annual report, in violation of §1303.202(a) of the Texas Occupations Code

**Buyers Home Warranty Company
(Burbank); license #127**

Agreed administrative penalty of \$3,250, entered October 30, 2008; failing to maintain a funded reserve, in violation of §1303.352(a)(5) of the Texas Occupations Code; failing to timely file its annual report, in violation of §1303.202(a) of the Texas Occupations Code

**Hooker, Raymond Louis Jr.
(Houston); license #190461**

Agreed 90-day suspension of broker license fully probated for 4 years, entered October 31, 2008; Respondent was convicted of a felony or misdemeanor involving moral turpitude that directly relates to the duties and responsibilities of the licensed occupation of a real estate broker and tends to demonstrate an inability to represent the interests of another, in violation of 53.021(a) and 22 TAC §1101.656 of the Texas Occupations Code; acting negligently or incompetently in performing an act for which a person is required to hold a real estate license, in violation of §1101.652(b)(1) of the Texas Occupations Code; by allowing buyers to occupy property before funding and without seller's authority; engaging in conduct that is dishonest or in bad faith or that demonstrates untrustworthiness, in violation of §1101.652(b)(2) of the Texas Occupations Code; offering to sell or lease real property on terms other than those authorized by the owner of the real property or the owner's authorized agent, in violation of §1101.652(b)(20) of the Texas Occupations Code; publishing or causing to be published an advertisement, including an advertisement by newspaper, radio, television, the Internet or display, that misleads or is likely to deceive the public, tends to create a misleading impression, in violation of §1101.652(b)(23) of the Texas Occupations Code by placing incorrect information regarding utilities on the MLS

**Aguilar, Cynthia B.
(Pasadena); license #368268**

Agreed reprimand of salesperson license, entered October 23, 2008; Agreed administrative penalty of \$500, entered October 23, 2008; failing within a reasonable time to make good a check issued to the Commission and pay the processing fee, in violation of §1101.652(a)(4) of the Texas Occupations Code; failing to pay the check processing fee within 15 days after the Commission has mailed the request for payment, in violation of 22 TAC §534.2(a)

**Hernandez, Carmen Aleida
(San Antonio); license #528114**

Agreed reprimand of salesperson license, entered October 29, 2008; Agreed administrative penalty of \$250, entered October 29, 2008; 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(c)

**Johnson, Nikki Harrell
(Livingston); license #440477**

Agreed reprimand of broker license, entered October 29, 2008; Agreed administrative penalty of \$500, entered October 29, 2008; failing within a reasonable time to make good a check issued to the Commission and pay the processing fee, in violation of §1101.652(a)(4) of the Texas Occupations Code; failing to pay a check processing fee within 15 days after the Commission has mailed a request for payment, in violation of 22 TAC §534.2(a)

**Shipler, Steven Troy
(Plano); license #453759**

Agreed 12 month suspension of salesperson license, effective November 1, 2008, beginning February 1, 2009 the remaining 9 months probated for 3 years; engaging in misrepresentation when selling real property in his own name, making a misrepresentation and failing to disclose a material defect to a potential buyer by failing to disclose certain defects and litigation relating to those defects on a seller's disclosure form, in violation of Sections

Calendar of Events**Commission Meetings:**

**February 23, 2009
(Austin)**

Broker-Lawyer Committee Meetings:

**April 3, 2009
(Austin)**

Education Committee Meetings:

**Not Scheduled
(Austin)**

Broker Responsibility Committee Meetings:

**Not Scheduled
(Austin)**

Inspector Committee Meetings:

**February 13, 2009
(Austin)**

Web site:

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

Phone

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

1101.652(a)(3)(A), 1101.652(b)(3) and (4) of the Texas Occupations Code; acting negligently or incompetently, engaging in conduct that is dishonest, pursuing a continued and flagrant course of misrepresentative advertisement, soliciting or offering for sale real property by means of a deceptive practice, and publishing a misleading advertisement by advertising his willingness, and executing legal documents, to purchase his client's home himself if it did not sell within 120 days when in fact he had no intention to purchase the property, in violation of Sections 1101.652(b)(1), (2), (6), (15), and (23) of the Texas Occupations Code; publishing an advertisement that implies that a salesperson is the person responsible for the operation of a real estate brokerage, in violation of section 535.154(e) of the Texas Administrative Code

Pilant, Gary Verie
(Irving); license #484159

Agreed 12 month suspension of salesperson license, effective November 1, 2008, beginning February 1, 2009 the remaining 9 months fully probated for 3 years; failing to act as a fair and impartial intermediary, acting negligently or incompetently, receiving compensation from more than one party to a real estate transaction without the full knowledge and consent of all parties to the transaction, failing to specify a definite termination date that is not subject to prior notice in a contract, and accepting an undisclosed direct profit on an expenditure made for a principal by executing a power of attorney for his client in order to sell her property while she was out of the country and then failing to properly transfer ownership of the property while accepting profits as a private lender from the prospective buyer, in violation of Sections 1101.559(c), 1101.652 (b)(1), (8), (12), and (13) of the Texas Occupations Code; acting negligently or incompetently and publishing a misleading advertisement that implies that the salesperson is the person responsible for the operation of a real estate brokerage, in violation of Section 1101.652(b)(1) and (23) of the Texas Occupations Code and section 535.154(e) of the Texas Administrative Code

Grothaus, Sheldon E.
(Hondo); license #477163

Agreed reprimand of broker license, entered November 25, 2008; Agreed administrative penalty of \$500, entered November 25, 2008; acting negligently or incompetently and in an untrustworthy manner by attempting to remove a barrel of a possibly toxic substance, spilling some of the contents on the ground, covering up the spill, and failing to tell the buyer or the seller that the spill had occurred, in violation of Sections 1101.652(b)(1) and (2) of the Texas Occupations Code

Ballard, Elizabeth Ann
(Houston); license #375157

Revocation of broker license, effective November 10, 2008; failing within a reasonable time to make good a check issued to the Commission and pay the processing fee, in violation of §1101.652(a)(4) of the Texas Occupations Code; failing to pay a check processing fee within 15 days after the Commission has mailed a request for payment, in violation of 22 TAC §534.2(a)

King, Thomas William
(Katy); license #533192

Revocation of salesperson license, effective November 10, 2008; failing within a reasonable time to make good a check issued to the Commission and pay the processing fee, in violation of §1101.652(a)(4) of the Texas Occupations Code; failing to pay a check processing fee within 15 days after the Commission has mailed a request for payment, in violation of 22 TAC §534.2(a)

Beginning June 30, 2008, licensees who choose to renew active but do not complete the education or pay the deferral fee within 60 days will no longer be referred to the Enforcement Division for disciplinary action. The license will go inactive. Any salespeople sponsored by an inactive broker will also go inactive. To reactivate the license, the licensee will be required to complete the required MCE, pay the \$200 deferral fee, an additional \$250 late reporting fee and \$20 to reactivate the license by filing a return to active status for a broker or a salesperson sponsorship form for a salesperson.

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

<p>Lehman, Amanda E. (Converse); License #564333 Revocation of salesperson license, effective September 30, 2008</p>	<p>Schuren, Jared David (Houston); License #514461 Revocation of salesperson license, effective September 30, 2008</p>	<p>Hall, Nathan Joseph (Mesquite); License #514417 Revocation of salesperson license, effective September 30, 2008</p>
<p>King, R. Jeanette (Athens); License #258596 Agreed revocation of salesperson license fully probated for 18 months, effective September 26, 2008; Agreed administrative penalty of \$500, entered September 26, 2008</p>	<p>Bell, Richard W. (Magnolia); License #489356 Agreed reprimand of broker license, entered September 26, 2008; Agreed administrative penalty of \$500, entered September 26, 2008</p>	<p>Matej, Ryan Lee (Rosenberg); License #486041 Reprimand of salesperson license, entered September 25, 2008; Assessment of administrative penalty of \$500, entered September 25, 2008</p>
<p>Holt, Tony D. (Bee Cave); License #491344 Reprimand of salesperson license, entered September 24, 2008; Assessment of administrative penalty of \$500, entered September 24, 2008</p>	<p>Smith, Karen Jane (Midlothian); License #459233 Agreed reprimand of salesperson license, entered September 23, 2008; Agreed administrative penalty of \$500, entered September 23, 2008</p>	<p>Cope, John Gregory (Houston); License #434829 Agreed reprimand of salesperson license, entered September 18, 2008; Agreed administrative penalty of \$500, entered September 18, 2008</p>
<p>Arango, Agustine (Houston); License #569458 Agreed reprimand of salesperson license, entered September 12, 2008; Agreed administrative penalty of \$500, entered September 12, 2008</p>	<p>Acosta, Marina Ayala (DeSoto); License #568897 Agreed reprimand of salesperson license, entered September 12, 2008; Agreed administrative penalty of \$500, entered September 12, 2008</p>	<p>Benites, Susan Lynn (Austin); License #518440 Agreed reprimand of salesperson license, entered September 11, 2008; Agreed administrative penalty of \$500, entered September 11, 2008</p>
<p>Leeper, Oatis A. (El Paso); License #253007 Agreed revocation of salesperson license fully probated for 1 year, effective September 3, 2008; Agreed administrative penalty of \$500, entered September 3, 2008</p>	<p>Akintoye, Adesoji Waheed (Houston); License #527681 Agreed revocation of salesperson license fully probated for 1 year, effective September 3, 2008; Agreed administrative penalty of \$500, entered September 3, 2008</p>	<p>Walkup, Keith Alan (Austin); license #517125 Agreed reprimand salesperson license, entered October 2, 2008; Agreed administrative penalty of \$500, entered October 2, 2008</p>
<p>Perry, Jamal Vincent (Universal City); license #514988 Agreed reprimand of salesperson license, entered October 2, 2008; Agreed administrative penalty of \$500, entered October 2, 2008</p>	<p>Hernandez, Nancy H. (Garden Ridge); license #478585 Agreed reprimand of salesperson license, entered October 2, 2008; Agreed administrative penalty of \$500, entered October 2, 2008</p>	<p>Lozano, Sonia Marie (League City); license #516601 Agreed reprimand of salesperson license, entered October 14, 2008; Agreed administrative penalty of \$500, entered October 14, 2008</p>
<p>Washington, T. N. (Dallas); license #515316 Agreed reprimand of salesperson, entered October 14, 2008; Agreed administrative penalty of \$500, entered October 14, 2008</p>	<p>Wood, Jeana R. (San Antonio); license #494604 Agreed reprimand of salesperson, entered October 15, 2008; Agreed administrative penalty of \$500, entered October 15, 2008</p>	<p>Ireland, Elaine W. (Austin); license #482269 Agreed revocation of salesperson license fully probated for 9 months, effective October 17, 2008; Agreed administrative penalty of \$500, entered October 17, 2008</p>
<p>Thomas, Juniat Jr. (Houston); license #494292 Agreed revocation of salesperson license fully probated for 9 months, effective October 20, 2008</p>	<p>Sill, William James (Austin); license #437262 Agreed reprimand of broker license, entered October 23, 2008; Agreed administrative penalty \$500, entered October 23, 2008</p>	<p>Nance, Virginia Leigh (Carrollton); license #439906 Revocation of salesperson license, effective October 31, 2008</p>
<p>McCall, Yolanda P. (Houston); license #505016 Agreed revocation of salesperson license fully probated for 9 months, effective November 1, 2008; Agreed administrative penalty of \$500, entered November 1, 2008</p>	<p>Medellin, Ernestina V. (San Antonio); license #372923 Revocation of salesperson license, effective November 10, 2008</p>	<p>Medrano, Milton L. Solis (Houston); license #510338 Revocation of salesperson license, effective November 10, 2008</p>
<p>Slama, Tracy Joanne (Cypress); license #496121 Revocation of salesperson license, effective November 10, 2008</p>	<p>Saucedo, Viviana Vega (Fort Worth); license #517748 Revocation of salesperson license, effective November 12, 2008</p>	<p>Stephenson, John C. (Buda); license #457625 Revocation of salesperson license, effective November 12, 2008</p>
<p>Jordan, Diana Marie (Garland); license #484856 Revocation of salesperson license, effective November 12, 2008</p>	<p>Manlapaz, Erwin Tan (Frisco); license #510898 Agreed reprimand of salesperson license, entered November 14, 2008; Agreed administrative penalty of \$500, entered November 14, 2008</p>	<p>Kim, Christine (Plano); license #547541 Agreed revocation of salesperson license fully probated for 18 months, effective November 15, 2008; Agreed administrative penalty of \$500, entered November 15, 2008</p>

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

<p>Stephan, Scott Ed (San Antonio); License #432766 Agreed reprimand of salesperson license, entered September 25, 2008; Agreed administrative penalty of \$500, entered September 25, 2008</p>	<p>Warren, Jon Miller Jr. Waxahachie; License #399731 Agreed revocation of broker license fully probated for 1 year, effective September 15, 2008; Agreed administrative penalty of \$500, entered September 15, 2008</p>	<p>Schelldorf, Arthur Edward (McKinney); license #475531 Agreed revocation of salesperson license fully probated for eighteen months, effective October 15, 2008; Agreed administrative penalty of \$500, entered October 15, 2008</p>
<p>Sallabedra, Guadalupe M. Jr. (Carrollton); license #551722 Agreed revocation of salesperson license fully probated for 18 months, effective November 10, 2008; Agreed administrative penalty of \$500, entered November 10, 2008</p>	<p>Bui, Jonathan (Houston); license #455940 Agreed reprimand of broker license, entered November 11, 2008; Agreed administrative penalty of \$500, entered November 11, 2008</p>	<p>Lindley, Shannon Ray (Mission); license #516665 Agreed reprimand of salesperson license, entered November 14, 2008; Agreed administrative penalty of \$500, entered November 14, 2008</p>

Public Member and Inspector Vacancies on Inspector Advisory Committee

The Texas Real Estate Commission is soliciting applications for appointment to three open positions on the Inspector Committee.

The advisory committee's purpose is to make recommendations to the Commission regarding a variety of inspection-related matters toward the goal of ensuring a high degree of service to and protection of the public in dealing with inspectors. The committee consists of six professional inspectors and three public members, with one public member seat and two professional inspector seats open. Each term will be for six years, expiring on February 1, 2015. Following the Commission's model, the public members cannot hold occupational licenses in the real estate field (appraiser, real estate broker/salesperson, mortgage broker, etc.).

The committee is permitted to meet by teleconference, although it is anticipated that some travel to Austin may be necessary. Limited funds may be available for travel reimbursement, but due to legislative restrictions, the Commission is not able to compensate members for their time. All committee meetings must comply with the Open Meetings Act.

Individuals wishing to be considered for appointment should send a letter and resume to Chairman John Eckstrum at the Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188 or by fax to 512-465-3910. Applications should be received at TREC no later than Monday, February 9, 2009.

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. **(Total of 210 core hrs. and 60 related or core hours 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 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.