



TREC Advisor

Texas Real Estate Commission ★ Volume 21, Number 7 ★ October 2010

Status Report on TREC Services

ONLINE APPLICATIONS RESTORED

The online tools are back up! We encourage you to use them. After Oct 31, the \$20 paper filing fee will return for all paper applications submitted when the application is available online. Be smart - go online first!

What online services are currently available?

- **Salesperson, Individual Broker, Broker LLC, Broker Corporation, Inspector and Easement & Right-of Way Individual and Business Licensees may manage their contact information: address, telephone number, and email address through online service.**
- **Salesperson (active and inactive) license renewals (timely or expired less than one year) for licenses subject to MCE ONLY.** (SAE must renew via paper form)
- **Individual Broker (active and inactive) license renewals (timely or expired less than one year).**
- **Salesperson new initial license applications.** If you submitted an Education Evaluation prior to 9/1/2010, you must submit the license application via paper.

- **Individual Broker new initial license applications.** If you submitted an Education Evaluation prior to 9/1/2010, you must submit the license application via paper.
- **Broker - LLC and Corporation (active and inactive) license renewals (timely or expired less than one year).**
- **Inspectors - Professional, Real Estate and Apprentice license renewals (active and inactive)**
- **Easement & Right-of-Way Individual and Business Registration Renewals**

If your license expired 9/30/2010, and you have not yet received your renewed license and online it shows the 9/30/2010 expiration date, and you have sent in your renewal, education and appropriate fees, then we have it and are processing it.

All initial applications prior to October are being processed by paper forms only at this time. TREC knows that you are concerned about your livelihood and the validity of your license. TREC will not show any license in "Expired" status until we know that we have processed all 9/30/2010 timely renewals. This means that your license will continue to show "Active" in the licensee look-up search, but will show your expiration date of 9/30/2010 instead of 9/30/2012. If you need proof from TREC that your license is valid, please call or email us so that we may provide you with documentation.

All agency employees are working overtime to process the renewals as efficiently as possible. Many employees are also working weekends to help with the backlog. We are working very hard to ensure that your license renewal gets processed as quickly as possible, but there is a significant backlog.

If you have submitted an initial application, sent everything in, but haven't heard back yet, you can expect it to take 4-6 weeks from the point of receipt to process your application. Please be patient. Due to the backlog it is taking longer than normal for TREC to process new applicants, but it will get done. If you have sent everything to us, we have it and are processing it, but unable to answer your inquiries immediately.

If you have emailed TREC or had trouble getting through on the phone and haven't received a reply from anyone, please know that we are getting to emails and through calls and voicemails as quickly as possible. Email boxes are full and the phone lines are constantly busy. We are doing our best to get you answers and assist you. TREC has assigned additional resources to focus on responding to email inquires. Thank you for your patience and understanding.

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The agency exists to safeguard the public interest and protect consumers of real estate services. In accord with state and federal laws the agency oversees real estate brokerage, appraisal, inspection, home warranty and timeshare interest providers. Through education, licensing and regulation, the agency ensures the availability of qualified and ethical service providers, thereby facilitating economic growth and opportunity in Texas.

TEXAS REAL ESTATE COMMISSION

Meeting Highlights

TREC meeting minutes can be found on the TREC web site at www.trec.state.tx.us



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Texas Real Estate Commission

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September 2010

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TREC Administrator
Douglas E. Oldmixon

Desktop Publishing
Patricia Holder

The TRECAAdvisor (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 TRECAAdvisor 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 TRECAAdvisor, 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
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(512) 459-6544
<http://www.trec.state.tx.us>

...from the Administrator

Wow; the last six weeks have been the most challenging in the memory of our agency staff – and many have been here for over a decade! Let me hit a highlight or two...

Over the Labor Day weekend we converted all of our licensing database from the old TRELIS platform onto a new VERSA Regulation program provided by Iron Data, LLC. About 99% of the data converted directly and successfully, with some added steps needed for about 3,800 initial license applications pending at the time. The conversion included new online tools to duplicate many of the processes previously available to our license holders. Unfortunately, these tools proved unreliable and serious problems began to show up immediately. First credit card processing was not available, and once it was restored, data entered online was being posted into a “test” version of the system. We turned off all of the online tools until these problems could be analyzed, fixed and robustly tested.



Douglas E. Oldmixon, Administrator

The good news is that almost all of these tools are back online and have been since early October, plus some new capabilities have been added. The “bad” news is that while they were off, we asked all of you to conduct all September transactions via paper with checks - the old fashioned way. We received over 8,000 paper transactions; we typically receive about 1,500 in a month. Processing this overload, while updating statuses on the 3,800 pending applications, working on potential solutions to get the tools back online as rapidly as possible, migrating incorrectly stored online data, answering your many phone and email questions, all while trying to keep you fully informed with progress updates, has been a huge feat! The staff has been amazing and has risen to the challenge with a can-do spirit.

First, let me assure you that no applications are being ignored; we are working them from the earliest to the most recent. This is the fairest way we can manage the September backlog. Agency staff is working mandatory overtime every day and we have a full day of regular hours each Saturday until it is cleared. We sincerely apologize for the delay, but are doing everything we can to manage the issue that these serious technology failures forced upon us. What would normally take 2 weeks will likely take 4-6 weeks to complete. We appreciate your patience and understanding as we work through this!

If you will resume the prior rate of online transactions at over 85%, we should be back to “normal” by early November. So please, do your part and go “online” first.

We appreciate all of the serious feedback we have received on the draft rules that will be considered at the November Commission meeting. We have heard your concerns and will be incorporating them into suggested revisions for the Commissioners to consider.

In the face of recent cut backs, several retirements, internal transfers and normal turnover we are pleased to introduce new members to our team on page four.

Enjoy the glorious fall season, even if your favorite football team is not doing so well.

WHAT'S ALL THIS ABOUT A SECURITY TOKEN?

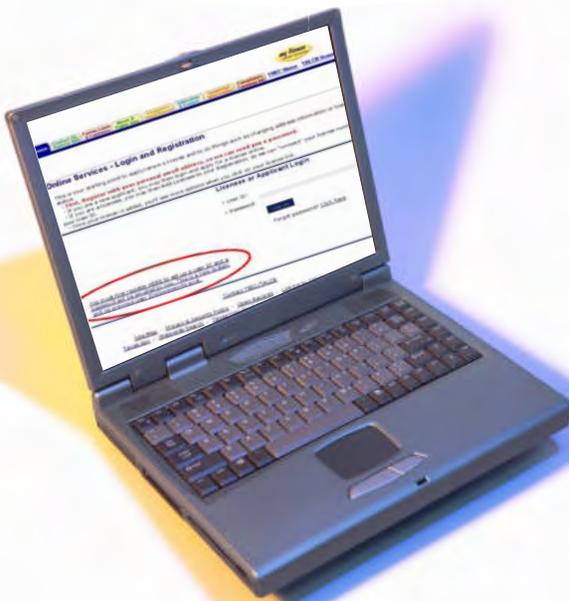
With the agency's new online services, license holders must first register themselves (setting up a User ID and password) and then "add licenses to registration," a step for which you will need a security token to complete this process. You might ask, "why this extra step and all the trouble?" Good question.

If you are a current license holder, then your information and data was converted from the former licensing database, which means that when you register yourself in the new system, we need a way to confirm that it really is you registering online (and not someone pretending to be you), and you hold the licenses (and license numbers) that you claim to hold. The new system does this validation through a "security token." A unique security token has been generated for each licensee, no matter how many different licenses they hold. That is why, when you tell the system that you hold a Salesperson license, and type that license number and your security token, the system will also bring up any other license you may hold (appraiser; inspector, etc.).

However, for Brokers who are also the designated officer ("D.O.") for one or more licensed companies (corporations or LLCs), the company is considered to be a different entity from you. That way if the D.O. changes, the company and license records still remain the same. So each D.O. will have (or may have already) received a separate token for each company to add its license to the D.O.'s personal Broker registration.

If you received your security token by email early in the month of September, please go ahead and use that token - it has not changed. If you have discarded that email, don't worry, you will be receiving a subsequent notice containing your token as your license renewal date approaches. For those licensees who do not have an email address on file with the agency, a hard copy letter will be mailed.

Lastly, for those who apply online for an initial salesperson license, once the license is approved, it will be automatically associated with their online account. These licensees will not need a security token. However, those who apply for an initial salesperson license on paper will receive their token once their license is approved, and then they can use the online services to manage their account and renew when the time comes.



"LATE" RENEWALS

Working after your license has expired is a violation of the law and the agency's rules. We will investigate all claims of "unlicensed" activity and impose discipline where appropriate. Brokers and sponsored sales agents whose license is expired for less than a year can pay a statutory late renewal filing fee and immediately resume licensed activity once they receive their license. Activities performed while previously expired may still be considered for disciplinary purposes.

NEW FACES AT TREC

**Kathleen Manchin, Attorney
TREC Standards & Enforcement Services**

Most recently Kathleen worked for the Texas Residential Construction Commission until it closed. Before that she did legal consulting work for ARELLO (Association of Real Estate License Law Officials) and was in private practice.

As a TREC attorney, Kathleen's primary responsibility is handling complaints filed by consumers of real estate services.



**Christy Grimberg, Administrative Assistant
Education & Licensing Services Division**

Christy has over 15 years of administrative experience and over 10 years of management experience. She has an Associate degree in Business Management. Before TREC, she worked for GDS Associates, Inc., an engineering and consulting company that works with numerous utility companies, as the administrative assistant to the vice president.

Christy is working in the Education department of her division and is a welcome addition.



**Andrea Gauna, Administrative Assistant
Education & Licensing Services Division**

Andrea has been a stay at home mom taking a few classes from ACC. Before that, she worked for the Texas Department of Savings and Mortgage Lending in the Licensing Division.

Andrea is working in Licensing department of her division where she processes all types of renewals and applications.



**Sha-Nerry Showels, Administrative Assistant
Reception & Communication Services**

Sha-Nerry worked for Dell Financial Services as a Asset Protection Specialist. She also attends Everest Institute for Medical Insurance Billing and Coding.

Sha-Nerry is working in the Reception & Communication Services Division answering inquiries received on the Commission's main telephone number.



**Greg Leet, DFW Investigator
TREC Standards & Enforcement Services**

Greg was a federal agent for 26 years, culminating with his position as Senior Special Agent with the FBI, prior to that he worked for the IRS and the DCIG. After retiring from the federal government he worked for TDI beginning in 2002, came to TREC soon after, went back to TDI and now has returned again to TREC.

Greg is working in the TREC's SES Division and will be investigating complaints in the Dallas/Fort Worth area.



TREC Rule Review of Chapter 535, General Provisions, to be Considered for Adoption at the November Meeting

At the August 9, 2010, meeting of the Texas Real Estate Commission, the Commission voted to propose for notice and comment a series of rule amendments and new rules under Chapter 535 of Title 22 of the Texas Administrative Code (the Rules). While there are many substantive changes, the amendments and new rules also reorganize the chapter into a more logical order. The list below highlights some of the substantive changes. The TREC website (www.trec.state.tx.us) has comprehensive summaries and the text of all the proposed amendments and new rules that the Commission will consider for final adoption at the November meeting.

BROKER RESPONSIBILITY

- Clarifies a broker's responsibilities to their sponsored salespersons, the public, and other brokers.
- A broker would be required to advise a sponsored salesperson of the scope of the salespersons authorized activities under the act; broker is liable for the activities of the salesperson if the broker permits a salesperson to engage in activities beyond the scope originally authorized.
- A broker is responsible for any property management activity conducted by sponsored salespersons and for advertising of sponsored salespersons.
- The amendments would permit a broker to designate in writing another licensee to be responsible for day-to-day supervision of sponsored salespersons; however, the broker would continue to have overall responsibility of the salespersons.
- The amendments would require a broker to maintain records of transactions for a period of 4 years.
- Brokers will be required to maintain written policies and procedures to ensure that:
 - ❖ Each sponsored salesperson is advised of the scope of the salesperson's authorized activities subject to the Act and is competent to conduct such activities;
 - ❖ Each sponsored salesperson maintains their license in active status at all times while they are engaging in activities subject to the Act;
 - ❖ Any and all compensation paid to a sponsored salesperson for acts or services subject to the Act is paid by, through, or with the written consent of the sponsoring broker;
 - ❖ Each sponsored salesperson is provided on a timely basis, prior to the effective date of the change, notice of any change to the Act, Rules, or commission promulgated contract forms;
 - ❖ In addition to completing statutory minimum continuing education requirements, each sponsored salesperson receives such additional educational instruction the broker may deem necessary to obtain and maintain on a current basis competency in the scope of the sponsored salesperson's practice subject to the Act;
 - ❖ Each sponsored salesperson complies with the commission's advertising rules. All trust accounts, including but not limited to property management trust accounts, and other funds received from consumers are handled by the broker with appropriate controls;
 - ❖ Records are properly maintained pursuant to records retention requirements in the rules subsection.
- The amendments clarify that the broker responsibility rules are not meant to create an employer/employee relationship where there is none.
- Amendments to §535.3 regarding Compensation to or Paid by a Salesperson would require that an agreement between a broker and sponsored salesperson regarding the compensation a salesperson receives or pays to other licensees must be in writing.

LICENSE REQUIRED/NOT REQUIRED

- New §535.4 regarding License Required is a compilation of existing rules that are put together into one comprehensive rule that addresses the instances in which a license is required under the Act.
- New §535.5 regarding License Not Required is a compilation of existing rules that are put together into one comprehensive rule that addresses the instances in which a license is not required under the Act.

CORPORATIONS AND LIMITED LIABILITY COMPANIES

- Section 535.4 adds a new provision which clarifies that a corporation or limited liability company owned by a broker or salesperson must be licensed as a broker if it receives compensation on behalf of the licensee.
- Amendments to §535.53 clarify the requirements for obtaining and maintaining a broker license for a corporation or limited liability company, and new subsection (c) provides that if a corporation or limited liability company is dissolved with the Secretary of State the license becomes null and void.

EDUCATION, EXAMS, SCHOOLS & INSTRUCTORS

- The renewal period for accreditation of schools would be changed from five years to four years in proposed §535.63(b). For purposes of calculating a school's passage rate in §535.63(b)(3), the commission would use a four year period instead of a five year period.
- A course approval would expire four years from the date of approval, and if any school that offers the same course obtains TREC approval to offer the same course, the expiration date remains unchanged.
- The requirement in existing §535.64 that examination preparation course be submitted to TREC for approval would be deleted.
- Schools will be required to provide to students and maintain for commission review instructor and course evaluations for each course.
- A school will be required to maintain records of each student enrolled for a minimum of four years; and the full class file and student enrollment agreements must be retained for at least 24 months following completion.
- §535.71 - the renewal term for instructor approval would be changed from five to two years; alternative delivery method courses for required legal credit will need to be certified by a distance learning certification center that is acceptable to the commission under new subsection (z).
 - ❖ Subsection (i) would require a provider to make available to students and maintain for commission review instructor and course evaluation for each course.
 - ❖ Under relettered subsection (k), a provider would be required to maintain the same types of records and for the same period of time as required of schools accredited under Subchapter F, regarding core education providers.

EDUCATION AND EXPERIENCE

- New subsection (b) in §535.54 would provide that an associate's degree counts towards all the related education requirements (60 hours) for a salesperson license, and a bachelor's degree counts towards all the related education requirements (630 hours) for a broker license.
- The commission has the authority under §1101.362 of the Act to waive some or all of the education and experience requirements for someone who has been licensed within the six years preceding the date the application is filed. Currently, §535.56, the commission has waived the education and experience required for a broker license for a broker who was licensed in the preceding six years (the maximum authorized under the Act) and otherwise meets the requirements of the section. ("Late Renewal" period.) The proposed rule would change the period from six years to four years so that a person who was licensed in the preceding

four years and otherwise meets the requirements of the section (experience) could apply for a broker license. Anyone applying more than 2 years after their license expired would need to take the examination again.

MISCELLANEOUS

- Licensees would be required to notify the commission of the licensee's current email address and other contact information.

VIOLATIONS

- §535.141 would be amended to include advertising in the laundry list of activities that a licensee may not engage in while the person's license is under suspension; the commission may automatically suspend a license if the licensee violates certain types of terms or conditions of an agreed probated revocation or suspension.
- Amendments to §535.146 would clarify existing requirements that apply to maintenance of trust accounts, including that a broker is ultimately responsible for compliance with the trust account requirements in the Act and Rules; subsection (h) would require a broker to notify all parties in writing when a broker makes a disbursement to which all parties have not expressly agreed to in writing; new subsection (k) clarifies that a broker may deposit and maintain additional amounts in a trust account to cover bank service fees.
- §535.147(a) clarifies that a licensee may not share a commission with an unlicensed person except as provided by the Act or Rules; new subsection (b) would authorize an unlicensed person to share in the income earned by a licensee as long as the person does not engage in real estate brokerage activity; new subsection (c) would clarify that a broker or salesperson may not share a commission with an unlicensed corporation or limited liability company created by a licensee for the purpose of collecting a commission or fees on behalf of the licensee.
- New subsection (c) would be added to §535.148 to prohibit a licensee from entering into contracts with service providers which prohibits a licensee from entering into or offering similar service on behalf of a competing service provider; new subsection (d) would prohibit contingent fee arrangements where the licensee accepts a fee that is contingent upon a party purchasing a contract or services from a specific service provider; new subsection (e) adopts by a reference RSC-1, Disclosure of Relationship with Residential Service Company which licensees would be required to use to disclose compensation for services provided to or on behalf of a residential service company.
- Proposed new §535.154 would replace existing §535.154. Subsection (a) defines an "advertisement" for purposes of the section; subsection (b) clarifies what types of communications are not considered advertisements; subsection (c) requires salespersons and brokers to clearly and conspicuously, as defined in the subsection, include the sponsoring broker's name and license number in all advertising placed by or on behalf of the licensee, when the licensee is acting either as an agent or a principal; subsection (d) provides a laundry list of types of advertising that are considered deceptive and misleading; subsection (n) prohibits licensees from advertising information regarding service providers that ranks the providers unless the ranking is based on disclosed objective criteria; subsection (o) prohibits licensees from advertising that a licensee offers, sponsors, or conducts commission approved courses unless the licensee is approved to offer the courses; the remaining subsections restate existing advertising rules.

RESIDENTIAL LOCATORS ADVERTISING

- **Subchapter S. Residential Rental Locators** Section 535.300 would clarify that the definition of "advertisement" in §535.154 applies to rental locators.

TREC Disciplinary Actions August 2010



Raines, John Herbert
(Rowlett); License #147105

Agreed 4 year suspension of broker license fully probated for 4 years, effective August 31, 2010;

Agreed administrative penalty of \$4,000, entered August 31, 2010; pleading guilty to a 3rd degree felony offense, then failing to notify the commission of his plea within 30 days in violation of Texas Occupational Code §1101.652(a)(9) and making a material misstatement of fact regarding his criminal history on a subsequent broker license renewal application in violation of Texas Occupational Code §1101.652(a)(2).

Campos, Benjamin
(Mesquite); License #552590

Agreed revocation of salesperson license fully probated for 5 years, effective August 31, 2010;

pleading guilty to a 3rd degree felony and the time for appeal has elapsed or the judgment or conviction has been affirmed on appeal without regard to an order granting community supervision that suspends the imposition of the sentence in violation of Texas Occupational Code §1101.652(a)(1).

Pounders, Michael Carroll
(Corrigan); License #480009

Agreed 2 year suspension of salesperson license fully probated for 2 years, effective August 31, 2010; Agreed administrative penalty of \$2,000,

entered August 31, 2010; acting negligently by mismanaging clients funds in violation of Texas Occupational Code §1101.652(b)(1) and failing within a reasonable time to properly account for or remit money that is received by the license holder and that belongs to another person in violation of Texas Occupational Code §1101.652(b)(9).

American Home Shield of Texas, Inc.
(Memphis); License #102

Assessment of an administrative penalty of \$5,000, entered August 13, 2010;

advertising or marketing the company's services in a false, misrepresentative, misleading, deceptive, or unfair manner in violation of Texas Occupational Code §1303.352(a)(6).

JoVan Property Management, LLC
(Houston); License #N/A

Assessment of an administrative penalty of \$10,000 and ordered to cease and desist all real estate brokerage activities, entered August 9, 2010;

Jo Van Property Management LLC, by and through Sonia Keeton-Griffin acted, engaged in, and represented that the business entity was a real estate broker without first holding a license issued by the Texas Real Estate Commission by conducting property management and leasing services as independent contractor and not as an employee of 4 owners for 7 properties in violation of Texas Occupational Code §1101.351.

Keeton-Griffin, Sonia
(Houston); License #N/A

Assessment of an administrative penalty of \$15,000 and ordered to cease and desist all unlicensed real estate brokerage activities, entered August 9, 2010;

Ms. Keeton-Griffin individually and through Jo Van Property Management LLC, 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 conducting property management and leasing services as independent contractor and not as an employee of 4 owners for 7 properties in violation of Texas Occupational Code §1101.351.

Guerrero, Alfredo M.
(Killeen); License #448348

Agreed 2 year suspension of broker license fully probated for 5 years, effective August 6, 2010; Agreed administrative penalty of \$500, entered August 6, 2010;

acting negligently or incompetently in a property management situation in violation of Texas Occupational Code §1101.652(b)(1); in a property management situation, commingling money that belongs to another person with the license holder's own money in violation of Texas Occupational Code §1101.652(b)(10); establishing an association by employment or otherwise with a person other than a license holder if the person is expected or required to act as a license holder in violation of Texas Occupational Code §1101.652(b)(26); failing to be faithful and observant to trust placed in the agent, and to be scrupulous and meticulous in performing the agent's functions in violation of 22 Texas Administrative Code §531.1(2).

Guerrero, Sonny Duane
(Amarillo); License #552952

Suspension of salesperson license until receipt of required information, effective August 3, 2010; Assessment of an administrative penalty of \$500, entered August 3, 2010;

failing and refusing to produce on request, for inspection by the commission or a commission representative, a document, book, or record that is in the license holder's possession and relates to a real estate transaction conducted by the license holder in violation of Texas Occupational Code §1101.652(a)(5); failing to provide, within a reasonable time, information requested by the commission that relates to a formal or informal complaint to the commission in violation of Texas Occupational Code §1101.652(a)(6).

McCune, James Edward, Jr.
(Houston); License #283578

Revocation of salesperson license, effective August 31, 2010;

failing to comply with the terms and conditions of an agreed order requiring him to pay an administrative penalty for violation of Texas Administrative Code §535.92(f).

**Thomas, Roxie Diane
(London); License #514268**

Agreed 6 month suspension of salesperson license fully probated for 6 months, effective August 31, 2010; Agreed administrative penalty of \$500, entered August 31, 2010;

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 Texas Administrative Code §535.91(c).

**Keita, Khady
(Houston); License #466027**

Agreed probationary salesperson license issued for 1 year, effective August 30, 2010;

commission of an offense that is directly related to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Texas Administrative Code §541.1(a). Applicant provided documentation addressing the factors outlined in 22 Texas Administrative Code §541.1(c) and demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be licensed as a real estate salesperson under Texas Occupational Code §1101.354(2).

**Barron, Juan Luis
(League City); License #607492**

Agreed probationary salesperson license issued for 1 year, effective August 20, 2010;

commission of an offense that is directly related to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Texas Administrative Code §541.1(a). Applicant provided documentation addressing the factors outlined in 22 Texas Administrative Code §541.1(c) and demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be licensed as a real estate salesperson under Texas Occupational Code §1101.354(2).

**Stringo, Roxanna Lynn
(Port O'Connor); License #607426**

Agreed probationary salesperson license issued for 1 year, effective August 16, 2010;

commission of an offense that is directly related to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Texas Administrative Code §541.1(a). Applicant provided documentation addressing the factors outlined in 22 Texas Administrative Code §541.1(c) and demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be licensed as a real estate salesperson under Texas Occupational Code §1101.354(2).

**Hix, Jim Sebastian
(Waco); License #192157**

Probationary broker license issued for 2 years, effective August 11, 2010;

commission of an offense that is directly related to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Texas Administrative Code §541.1(a). Applicant provided documentation addressing the factors outlined in 22 Texas Administrative Code §541.1(c) and demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be licensed as a real estate salesperson under Texas Occupational Code §1101.354(2).

**Granderson, Justin Martin
(San Antonio); License #607205**

Agreed probationary salesperson license issued for 2 years, effective August 10, 2010;

commission of an offense that is directly related to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Texas Administrative Code §541.1(a). Applicant provided documentation addressing the factors outlined in 22 Texas Administrative Code §541.1(c) and demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be licensed as a real estate salesperson under Texas Occupational Code §1101.354(2).

**Emily Ann Mattox
(Pearland); License #607199**

Agreed probationary salesperson license issued for 1 year, effective August 9, 2010;

commission of an offense that is directly related to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Texas Administrative Code §541.1(a). Applicant provided documentation addressing the factors outlined in 22 Texas Administrative Code §541.1(c) and demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be licensed as a real estate salesperson under Texas Occupational Code §1101.354(2).

**Ringer, Kenneth David
(North Richland Hills); License #489080**

Agreed probationary salesperson license issued for 2 years, effective August 9, 2010;

commission of an offense that is directly related to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Texas Administrative Code §541.1(a). Applicant provided documentation addressing the factors outlined in 22 Texas Administrative Code §541.1(c) and demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be licensed as a real estate salesperson under Texas Occupational Code §1101.354(2).

Calendar of Events

**Commission Meeting
November 15, 2010
At 10:00 a.m.
(Austin)**

**February 14, 2011
At 10:00 a.m.
(Austin)**

**Web site:
<http://www.trec.state.tx.us>
Phone
(512) 459-6544**



Inspector Insight

Texas Real Estate Commission * Volume 1, Number 4 * October 2010

Texas Real Estate Commission

Volume 1, Number 4

October 2010

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Brad R. Phillips
TEMPLE

Linda S. Robicheaux
HOUSTON

Nancy J. Schriedel
PLANO

Fred Willcox
HOUSTON

FAQ Highlight:

Is the absence of gutters a defect and required reporting item per TREC?

No. Unless specifically indicated otherwise, the Standards of Practice only address items that are present at the time of the inspection. If gutters are present, they are required to be inspected under §535.228(c)(4).

Amendments and New Rules Concerning Inspectors to be Considered November 15, 2010

Subchapter R. Real Estate Inspectors. New §535.201, Definitions, consolidates definitions related to regulation of inspectors, including code organization and trade association, and introduces a Texas Standards of Practice/Legal/Ethics Update course.

INSPECTOR COMMITTEE

- Amendments to §535.206, The Texas Real Estate Inspector Committee, clarify that a member only serves until a successor has been appointed if the member completes his or her term and would make other non-substantive changes to the section.

INSPECTOR EXAMS & EDUCATION

- New §535.209, Examinations, moves the examination provisions from §535.214 and lower the minimum passing score on the professional inspector examination from 80% to 75%.
- New §535.212, Education and Experience Requirements for an Inspector License, allocates the number of hours of education required by Chapter 1102 for licensure as a real estate inspector or professional inspector among the core subject matter areas. This proposed change addresses both the hours required under the traditional three-tier method of licensure, as well as the hours required for the education/experience substitute method.
- New §535.213, Approval of Courses in Real Estate Inspection, increases the maximum amount of classroom course time that may be spent on field work from 10% to 50% and would further define a core course area of "legal/ethics."
- New §535.214, Providers of Real Estate Inspection Courses, incorporates content from current §535.212 regarding the requirements for providers of courses in real estate inspection.
- Amendments to §535.218, Continuing Education, would require all real estate inspectors and professional inspectors to take a six-hour Texas Standards of Practice/Legal/Ethics Update course in order to renew a license. This course would not increase the total number of hours required to renew but would be counted toward the 32-hour requirement to renew a 2-year license.

INSPECTOR MISCELLANEOUS

- New §535.217, Contact Information, would require that licensees provide the commission with a phone number and email address in addition to the permanent mailing address that is currently required, and this proposed section would further require licensees to keep the commission apprised of any changes to this contact information.

INSPECTOR ADVERTISING

- Amendments to §535.221, Advertisements, would explicitly bring electronic social media used for the purpose of gaining business into the definition of "advertisements" and would clarify how the rules relating to inspector advertising apply to these types of advertisements and how inspectors must identify themselves and provide their license numbers on such advertisements.

INSPECTION REPORTS

- Amendments to §535.222, Inspection Reports, would clarify that the names of each inspector who participated in performing an inspection, as well as all supervising real estate inspectors and/or sponsoring professional inspectors, must appear on inspection reports. The proposed amendments would also eliminate the signature requirement on inspection reports and would require inspectors to deliver reports within three days unless otherwise agreed to in writing.



TALCB Bulletin

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Appraisal Management Companies

Since the adoption of the Home Valuation Code of Conduct, appraisal management companies (AMCs) have taken on a significant role in the appraisal process. For some time, appraisers and other interested members of the public have notified the TALCB of various problems relating to these companies and have suggested that AMCs need to be regulated. However, due to the Texas legislative cycle, statutory change to regulate AMCs has had to wait until the 82nd session begins in January 2011.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (House Resolution 4173), passed this summer, includes a federal mandate that state appraiser licensing and certification agencies regulate AMCs in Title XIV of H.R. 4173, the Mortgage Reform and Anti-Predatory Lending Act. While the Act does not specify all of the requirements for the regulation of AMCs, it outlines certain minimum requirements and requires a number of federal agencies to jointly establish more specific requirements that will apply to state regulation of AMCs. With limited exceptions, AMCs will be required to:

- register with and be subject to supervision by a state appraiser certifying and licensing agency in each state in which each company operates
- verify that only duly licensed and certified appraisers are used for federally-related transactions
- require that appraisals coordinated by an AMC comply with USPAP
- require that appraisals are conducted independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established in the Truth in Lending Act.

The Act also provides for the creation of a national registry for AMCs, similar to the registry that exists for appraisers, and requires states to enforce “moral character” standards for direct or indirect owners of AMCs.

The Act, which was signed into law on July 21, gives states three years from the date of adoption of the federal regulations to implement the requirements in each state. It is anticipated that a Texas bill regarding regulation of AMCs will take effect in fall 2011, although the deadline for AMCs to register would likely be later.

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Calendar of Events

Board Meetings

November 19, 2010
At 10:00 a.m.
(Austin)

Web site:

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

Phone

(512) 459-2232

Texas Appraiser Licensing and
Certification Board
TALCB Bulletin

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TALCB Commissioner
Douglas E. Oldmixon

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...from the Commissioner

Please make sure you read the Administrator's Message on page 2 of the *TREC*Advisor to get an update on the technology challenges we have faced in recent weeks and what your staff is doing to handle them. I am so proud of what we have managed to overcome in the past six weeks.

I want to report you that Deloris Kraft-Longoria and I attended the joint AARO-TAF-ASC (Association of Appraiser Regulatory Officials – The Appraisal Foundation - Appraisal Subcommittee) Conference in Washington DC in early October and it was a great learning experience for all. Well attended by officials from many jurisdictions, the conference showcased a "Mock Trial" demonstration role-played for the attendees. Deloris played the role of the state's expert witness and did so quite well. In fact, the demonstration was such a hit that it received very high praise from many. Some attendees even suggested that it be required viewing as part of investigator and prosecutor training sessions!

The other most informative part of the conference was several presentations from officials at ASC relating to the ramifications of additional responsibilities and powers given to the agency under the Dodd-Frank regulatory reform bill signed into law in July.

Appraisal Management Company regulatory requirements, appraiser independence and market based fees are all hot topics that are affected by changes stemming from the bill. ASC needs to write the rules required to implement all of these various changes and that will take some time. We will be staying on top of these changes and inform you as they affect Texas appraisers.

We appreciate all of the serious feedback we have received on the draft rules that will be considered at the November Board meeting. We will listen to your concerns and will be incorporating them into suggested revisions for the Board members to consider.

This fall begins a 3 year cycle of the most sweeping changes in the appraisal field since the inception of FIRREA. Stay involved and keep your Board members aware of your ideas on developments as they arise. We look forward to your meaningful involvement.

Changes to the TALCB Renewal Forms

The renewal notices that will be sent out for licenses with a December 31, 2010 expiration will be different from what appraiser licensees have received in the past. Previously a customized renewal notice and form was sent to each individual licensee; however, to streamline processes and work more efficiently at the agency, renewal notices are now generic to your license type, and licensees will be responsible for taking and submitting the correct amount of education. The fees will be noted on the renewal notices, and some license types (certified general and certified residential) can renew online; others will need to download the appropriate renewal form from the website (www.talcb.state.tx.us) and submit their renewal via paper. We are working to add more processes to the online tools and will notify you when that happens.



Douglas E. Oldmixon, Commissioner

Rules to be Considered at the November Meeting

- The proposed amendments to 22 TAC §153.13 would eliminate provisions regarding changes that became effective on November 1, 2007, as all applicants are now subject to the new requirements, and clarify the AQB requirements regarding distance education courses. The amendments provide for current certified appraisers in good standing in other states to satisfy their education requirements for the same level of certification in Texas by virtue of the out-of-state certification. The amendments also introduce nonsubstantive changes to the section.
- The proposed amendments to 22 TAC §153.15 would implement the federal requirement that the board audit the experience of 100% of applicants for certification. The amendments would provide for current certified appraisers in good standing in other states to satisfy their experience requirements for the same level of certification in Texas by virtue of the out-of-state certification. The proposed amendments further clarify the experience audit process.
- The proposed amendments to §153.17 would consolidate the general renewal requirements into a new subsection (a) and clarify that a renewal is timely if it is complete and mailed or filed online by the expiration date. The proposed amendment would modify the process for reporting continuing education to the board, discontinuing the self reporting system validated through random audits and instead requiring the licensee to complete an ACE report form and submit certificates of course completion. The proposed amendments also clarify the process for reapplying for a license after expiration and make other non-substantive changes to improve readability.
- The proposed amendments to 22 TAC §153.19 would reflect non-substantive changes to provisions regarding licensure of persons with criminal histories, including those who request the Board to make a determination regarding their background before an application for licensure or certification is filed.
- The proposed amendments to 22 TAC §153.20 would add a requirement that licensees notify the board within 30 days of disciplinary action against other occupational licenses they hold, delete provision relating to mental illness, incorporate provisions of 22 TAC §153.22 relating to responding to requests for information from the board, restore certain provisions relating to conditions of probation under subsection (c), and add on additional condition of probation. The proposed amendments would also include a non-substantive reorganization of certain provisions.
- The proposed amendments 22 TAC §153.21 would clarify the responsibilities of a trainee's sponsor or authorized supervisor, omit provisions relating to requirements for licensure that are duplicative of the Appraiser Licensing and Certification Act, delete language related to changes that became effective in 2006 and 2008, change "prescribed" to "proposed" regarding forms to reflect the change from promulgated application forms to forms that are approved by the board, and make other nonsubstantive changes
- The repeal of 22 TAC §153.22 this section is proposed because its provisions are proposed elsewhere in this issue, to be incorporated into 22 TAC §153.20, Guidelines for Revocation, Suspension, or Denial of Licensure or Certification.
- The proposed amendments 22 TAC to §153.23 would constitute a nonsubstantive rewrite of this section.
- The proposed amendments 22 TAC §153.25 would modify the terminology to refer

to “temporary out-of-state registration” instead of “temporary non-resident registration” in accordance with the statutory language relating to temporary registration. The amendments would also change “prescribed” to “proposed” regarding forms to reflect the change from promulgated application forms to forms that are approved by the board.

- The proposed amendments to 22 TAC §153.27 would reorganize the section for readability and delete provisions that are duplicative of Tex. Occ. Code Section 1103.209, Reciprocal Certificate or License.
- The repeal of 22 TAC §153.31 is proposed because its provisions are duplicative of Tex. Occ. Code §1103.403, Office Location.
- The proposed amendments 22 TAC §153.33 would reorganize the section for readability and delete provisions that are duplicative of Tex. Occ. Code Section 1103.402, Signature or Endorsement on Appraisal.
- The proposed amendments 22 TAC §153.37 would delete provisions that are duplicative of Chapter 1103, Tex. Occ. Code, including Subchapter L, Penalties and Other Enforcement provisions, as well as provision that is addressed in the Penal Code.

NEW FACES AT TALCB



Robin Forrester, Investigator
TALCB Standards & Enforcement Services

Robin graduated with a BBA from Southwest Texas in 1976; started appraising in 1982 and came to TALCB after owning an appraisal company since 1998.

As an appraiser/investigator, Robin will be working complaints submitted to the Standards & Enforcement Services of the agency.



Lisa Smith, Legal Assistant
TALCB Standards & Enforcement Services

Lisa just moved to Texas from Fairbanks, Alaska where she has lived for the past 26 years. She worked as a Paralegal for a private law firm specializing in criminal law defense.

Lisa will be assisting the Standards & Enforcement Services Division of TALCB with complaint matters, hearings and public information requests.