



# TREC Advisor

Texas Real Estate Commission ★ Volume 20, Number 2 ★ March 2009

## 81<sup>ST</sup> TEXAS LEGISLATURE



Every legislative session TREC monitors bills filed that could affect the agency, its licensees and the real estate industry. Pre-filing of bills began November 10, 2008 and the deadline for filing bills and joint resolutions other than local bills, emergency appropriations, and bills that have been declared an emergency by the governor was March 13, 2009.

The following is a sampling of real estate related bills.

**SB 234** by West – Regarding the sale of real property subject to restrictive covenants, would amend the disclosure required by section 5.012 of the Property Code to provide notification of the buyer's right to obtain copies of restrictions, bylaws, and a resale certificate from a property owners' association from the seller; would amend section 207.003 of the

Property Code to require that a resale certificate provide, among other things, a statement of all fees associated with the transfer of ownership, including a description of each fee, to whom each fee is paid, and the amount of each fee.

**SB 354** by Estes – Provides for required statutory disclosures for persons providing foreclosure consulting services except for certain licensees, including real estate salespersons and brokers. The bill also provides statutory notices and disclosures required to be included in "equity purchase contracts" as defined in the bill.

**SB 862** by Eltife – Would modify licensing fee structure; would create an exception to certain requirements for recovery from the real estate recovery trust account in cases involving bankruptcies, provided that persons seeking recovery make a good faith effort to protect the account from judgments being discharged in bankruptcy; would expand discrimination prohibition to include disability and familial status; and would amend Residential Service Company Act to reflect change from TREC's inhouse hearing officer to the State Office of Administrative Hearings. See also HB 1406.

**SB 1036** by Harris – Would amend the Texas Timeshare Act to modify the requirements for timeshare filings and would modify certain requirements for timeshare contracts. See also HB 4452.

**SB 1184** by Patrick – Would permit education providers to offer online and correspondence courses for core credit (without associating with a college or university, as is currently required) if certain requirements are met. Requirements include the provider being a Texas entity with its principal office in Texas, the provider also offering a classroom version of any online or correspondence course, and pre- and post-assessments of all students. See also HB 2837.

**HB 23** by Leibowitz – Similar to the recent changes to the Seller's Disclosure Notice, this bill would require a landlord to disclose to a prospective tenant any actual knowledge of the landlord of previous use of the leased premises for the manufacture of methamphetamine.

**HB 28** by Leibowitz – Would require a seller of property to give written notice to a buyer indicating whether the seller has received notice from a municipality under Section 43.052, Local Government Code, that the property is included in the municipality's annexation plan and may be subject to annexation by the municipality.

**HB 114** by Pickett – Provides for the elimination of the requirement of obtaining fingerprints for new and renewing real estate license applications. Fingerprints are necessary for TREC to obtain FBI background checks.

**HB 372** by Jackson – Provide that meetings of property owners associations where membership is mandatory are subject to the Texas Open Meetings Act, Chapter 552, Gov. Code; would similarly provide that such records are subject to the Texas Public Information Act, Chapter 551, Gov. Code.

**HB 690** by Solomons – Relating to the right of a tenant to hold a landlord liable for falsely advertised square footage or amenities.

**HB 735** by Quintanilla – Would require an individual who is licensed or certified by a state regulatory agency to prominently display the individual's license or certificate number on any document, advertisement, business card, or logo provided to the public.

**HB 972** by Quintanilla – Would require an individual who is licensed or certified by a state regulatory agency to prominently display the individual's license or certificate number on ad-

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TEXAS REAL ESTATE  
COMMISSION

# Meeting Highlights

**THE MISSION of the Texas Real Estate Commission**  
is to assist and protect consumers of real estate services and foster economic growth in Texas. Through its programs of education, licensing and industry regulation, the Commission ensures the availability of capable and honest real estate service providers.

### December 15, 2008

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 a new employee was introduced, Jessica Calderon in the Communication Department.

The Commission approved payment of two recovery trust fund claims in the amounts of \$23,393 and \$25,827.

The Commission proposed amendments to 22 TAC §535.64 concerning Accreditation of Schools and Approval of Courses and Instructors. The Commission adopted two new addenda, Addendum for Reservations of Oil, Gas, and Other Minerals and a Short Sale Addendum, under 22 TAC §537.51 and §537.52. The Commission also adopted amendments to 22 TAC §534.2 concerning Processing Fees for Dishonored Payments; 22 TAC §535.51 concerning General Requirements; 22 TAC §535.52 concerning Individuals; 22 TAC §535.400 concerning Registration of Easement or Right-of-Way Agents and 22 TAC §541.1 concerning Criminal Offense Guidelines.

There was discussion concerning the effective date of the new home inspector Standards of Practice and standard inspection report form. The Commission established a policy that authorized inspector licensees to use the new report form on a voluntary basis prior to the February 1, 2009, effective date.

Administrator Tim Irvine announced that he would be leaving the Commission at the end of December. Loretta R. DeHay, Assistant Administrator and General Counsel, was appointed interim administrator. The Chair appointed Commissioners Mesa, Alley, Wukasch and himself as the selection committee for a new administrator.

The Commission heard three proposals for decision from the State Office of Administrative Hearings, adopting two and revising another.

The next scheduled meetings of the Commission will be February 23, 2009 at the TREC headquarters in Austin, TX.

### February 23, 2009

The Texas Real Estate Commission held its regularly scheduled meeting at the TREC headquarters in Austin, Texas on Monday, February 23, 2008. Chairman John D. Eckstrum presided.

The Commission elected Commissioner Avis G. Wukasch as vice-chair and Commissioner Adrian A. Arriaga as Secretary for the upcoming year.

The Commission recognized former Chair John Walton for his service to the Texas Real Estate Commission and the State of Texas.

The Commission voted to pay one claim against the Real Estate Recovery Trust Account in the amount of \$15,182.

The Commission voted to propose for comment amendments to 22 TAC §535.212, concerning Education and Experience Requirements for an Inspector License. The amendment would correct the form number referenced in the rule to the current form.

The Commission voted to adopt rule amendments to 22 TAC §535.64, concerning Accreditation of Schools and Approval of Courses and Instructors. This rule adopts by reference a revised TREC ED 3-1, Course Application.

The Commission reappointed Fred Willcox and Brian P. Murphy to the Inspector Advisory Committee.

The Commission heard five proposals for decision from the State Office of Administrative Hearings and adopted them.

The next scheduled meeting of the Commission will be May 26, 2009, at 1:00 p.m..

Official publication of the  
**Texas Real Estate Commission**  
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**Rick Perry**  
Governor

Commission Members:

**John D. Eckstrum**  
Chairman  
CONROE

**Troy C. Alley, Jr.**  
Vice-Chair  
ARLINGTON

**Adrian A. Arriaga**  
Secretary  
MC ALLEN

**Mary Frances Burlison**  
DALLAS

**Chris Day**  
JACKSONVILLE

**William H. Flores**  
COLLEGE STATION

**Elizabeth Leal**  
EL PASO

**Avis Wukasch**  
ROUND ROCK

INTERIM TREC Administrator  
**Loretta R. DeHay**

Desktop Publishing  
**Patricia Holder**

The TRECAdvisor (ISSN 1047-4579) is published by the Texas Real Estate Commission (TREC) as an educational service to licensees in the state of Texas. The purpose of the newsletter is to promote a better understanding of the Real Estate License Act and to inform all licensees of changes affecting laws and practices in the real estate industry. The TRECAdvisor is funded through legislative appropriations and subscriptions collected from TREC licensees. The official text of TREC rules is filed with the Office of the Secretary of State, Texas Register. TREC encourages reproduction of this newsletter with the appropriate acknowledgments. Subscriptions are available for \$4.00 for two years. Single issues are \$1.00. To order a subscription or a single issue write to TRECAdvisor, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188. For information regarding TREC, contact:

**Texas Real Estate Commission**  
P.O. Box 12188  
Austin, Texas 78711-2188  
(512) 459-6544 or (800) 250-TREC  
<http://www.trec.state.tx.us>

**RULE ACTIONS FROM DECEMBER 15, 2008 MEETING OF THE TEXAS REAL ESTATE COMMISSION**

<b>RULE NO.</b>	<b>EFFECTIVE DATE</b>	<b>SUMMARY OF ADOPTED RULE</b>
<i>For text of the rules as they were filed with the Texas Register, go to the web site <a href="http://www.trec.state.tx.us">www.trec.state.tx.us</a></i>		
22 TAC §534.2 (adopted)	01/07/09	The amendments to §534.2 change the title to the section and 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. Upon adoption the remaining reference to a "check" in the second sentence of subsection (a) of the proposed amendment was changed to read "payment."
22 TAC §535.51 (adopted)	01/07/09	The amendments to §535.51 adopt by reference ten revised application forms. The amendments 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.
22 TAC §535.52 (adopted)	01/07/09	The 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.
22 TAC §535.400 (adopted)	01/07/09	The amendments 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 1-3, Application For Easement Or Right-of-Way Agent Registration For An Individual was changed from the proposed form to reflect the correction of three typos and the updated acronym and address for the Texas Guaranteed Student Loan Corporation. 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.
22 TAC §537.51, §537.52 (adopted)	03/01/09	The Commission made typographical corrections to the forms adopted by reference and made other changes to the text of the forms in response to comments and further review and recommendation by staff and the Broker Lawyer Committee. Details of the changes to the forms can be found in the preamble to the rules.  New 22 TAC §537.51 adopts by reference a new TREC addendum for reservation of oil, gas, and other minerals. The 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 adopts by reference a new TREC short sale addendum. The 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.
22 TAC §541.1 (adopted)	01/07/09	The 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.

<b>RULE NO.</b>	<b>EARLIEST DATE OF ADOPTION</b>	<b>SUMMARY OF PROPOSED RULE</b>
<i>For text of the rules as they were filed with the Texas Register, go to the web site <a href="http://www.trec.state.tx.us">www.trec.state.tx.us</a></i>		
22 TAC §535.64 (proposed)	2/23/2009	The proposed amendments to §535.64 concerning Accreditation of Schools and Approval of Courses and Instructors would adopt by reference a revised course application form. Form ED 3-1, Course Application, has been revised to obtain additional information regarding the type of course, the provider's contact information, the delivery format, a sample course completion certificate, approval from the Distance Learning Certification Center for online courses, and a permission letter for courses using another provider's materials. The amendments also update a reference to Form ED 7-1, Instructor Manual Guidelines, which erroneously referred to an outdated version of the form, and a reference to the instructor approval requirements, which was not updated when the lettering of the subsections changed at the time of previous amendments to the section.

## RULE ACTIONS FROM FEBRUARY 23, 2009 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 <a href="http://www.trec.state.tx.us">www.trec.state.tx.us</a></i>
22 TAC §535.64 (adopted)	3/22/2009	The adopted amendments to §535.64 concerning Accreditation of Schools and Approval of Courses and Instructors adopt by reference a revised course application form. Form ED 3-1, Course Application, was revised to obtain additional information regarding the type of course, the provider's contact information, the delivery format, a sample course completion certificate, approval from the Distance Learning Certification Center for online courses, and a permission letter for courses using another provider's materials. The amendments also update a reference to Form ED 7-1, Instructor Manual Guidelines, which erroneously referred to an outdated version of the form, and a reference to the instructor approval requirements, which was not updated when the lettering of the subsections changed at the time of previous amendments to the section.

RULE NO.	EARLIEST DATE OF ADOPTION	SUMMARY OF PROPOSED RULE <i>For text of the rules as they were filed with the Texas Register go to the web site <a href="http://www.trec.state.tx.us">www.trec.state.tx.us</a></i>
22 TAC §535.212 (proposed)	5/26/2009	The proposed amendment to §535.212 concerning Education and Experience Requirements for an Inspector License updates a reference to the recently revised standard inspection report form.

### TREC Honors former Chairman, John S. Walton, Jr.



Chairman John D. Eckstrum and former Chair John S. Walton, Jr.

At the Commission meeting on February 23, 2009, TREC recognized former Commissioner and Chairman John S. Walton, Jr. for his service to the Commission and the State of Texas. On May 2, 2001, John Walton of Lubbock was selected by Governor Perry to serve on the board of the Texas Real Estate Commission.

On March 8, 2004, John Walton was appointed by Governor Perry to serve as the Chairman of the Texas Real Estate Commission and he served in that capacity until March 28, 2008, when Governor Perry appointed his successor.

Mr. Walton brought to the position of Chairman an incomparable array of skills, talents and experience, having established a large and highly successful real estate practice in Lubbock, and having served in a number of important roles with the Texas Association of Realtors, including serving as its Chairman in 1999.

Walton is Owner and Broker of Century 21 John Walton Realtors, a full service brokerage firm in Lubbock. Walton is a graduate of Texas Tech University.

### Commission Reappoints Two Inspector Members to Inspector Advisory Committee

At its meeting on February 23, 2009, the Commission reappointed Brian P. Murphy of Arlington and Fred Willcox of Houston were reappointed to the Real Estate Inspector Advisory Committee. Both Mr. Murphy and Mr. Willcox served on the former Inspector Committee. They were appointed to the Inspector Advisory Committee when it was formed at the October 8, 2007 meeting of the Commission. The term for each member is normally six years. To establish a rotation schedule for the appointing of members, both Mr. Murphy and Mr. Willcox were appointed to shorter terms of only fifteen months. Public member Wayne Burgess' term also expired in February 2009. No public member has been appointed to replace him. Following the Commission's model, the public members cannot hold an occupational license in the real estate field (appraiser, real estate broker/salesperson, mortgage broker, etc.).

**Persons interested in serving as a public member should contact the Committee liaison, Devon V. Bijansky at [devon.bijansky@trec.state.tx.us](mailto:devon.bijansky@trec.state.tx.us) or mail a resume and letter of interest to TREC, P.O. Box 12188, Austin, TX 78711-2188.**



## Disciplinary Actions December 2008-January 2009

**Wright, Sharon Seline  
(Houston); License #519463**

Agreed 2 year suspension of salesperson license fully probated for 9 years, effective December 1, 2008; entering a plea of guilty or nolo contendere to or being convicted of a felony in which fraud is an essential element without regard to an order granting community supervision that suspends the imposition of the sentence, in violation of §1101.652(a)(1) of the Texas Occupations Code; failing to notify the Commission, not later than the 30th day after the date of a final conviction or the entry of a plea of guilty or nolo contendere, that the person has been convicted of or entered a plea of guilty or nolo contendere to a felony or a criminal offense involving fraud, in violation of §1101.652(a)(9) of the Texas Occupations Code

**Burleson, Janet Elaine  
(Fort Worth); License #354893**

Agreed 3 month suspension of salesperson license fully probated for 3 years, effective December 1, 2008; acting negligently by making statements that mislead the public as to property value, and failing to make clear to all parties to a real estate transaction the party for whom the license holder is acting, failing to provide an Information About Brokerage Services form and failing to obtain the proper written consent to act as an intermediary, in violation of §§1101.652(b)(1) and (7), 1101.558(c), and 1101.559(a) of the Texas Occupations Code Garza,

**Tellier, Corinne Robare  
(Conroe); License #401907**

Agreed reprimand of salesperson license, entered December 11, 2008; Agreed administrative penalty of \$500, entered December 11, 2008; acting negligently and incompetently in failing to obtain any listing agreement for leasing of property in Spring, Texas, commingling of rental and security deposit monies with licensee's own money, executing real estate transaction documentation on behalf of an alleged principal without proper legal authority to do so, failing to insure proper ownership of property and taking of a commission from a principal's security deposit, 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 by failing to obtain any listing agreement for leasing of property in Spring, Texas, commingling of rental and security deposit monies with licensee's own money, executing real estate transaction documentation on behalf of an alleged principal without proper legal authority to do so, failing to insure proper ownership of property and taking of a commission from a principal's security deposit, in violation of §1101.652(b)(2) of the Texas Occupations Code; commingling money that belongs to another person with the license holder's own money when Respondent deposited rental and security deposit monies into her personal banking account instead of a proper trust account, in violation of §1101.652(b)(10) of the Texas Occupations Code; and offering to sell or lease real property without the knowledge or consent of the owner of the real property or the owner's authorized agent in violation of §1101.652(b)(19) of the Texas Occupations Code

**Trahan, Mi Sook  
(Katy); License #500351**

Agreed reprimand of salesperson license, entered December 12, 2008; Agreed administrative penalty of \$1,000, entered December 5, 2008; failing to present the Information About Brokerage Services to a party to a real estate transaction at the time of the first substantive dialogue, in violation of §1101.558(c) 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) the Texas Occupations Code; acting negligently or incompetently in formation, authorization, and conduct for an intermediary relationship between the parties, in completing contract forms and timely deposit of earnest money with the title company, 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 the intermediary relationship between the parties, in completing contract forms and failure to timely deposit earnest money with the title company in violation of §1101.652(b)(2) of the Texas Occupations Code; failing to make clear to all parties to a real estate transaction the party for whom the license holder is acting in the formation, authorization and conduct between the parties in an intermediary relationship, in violation of §1101.652(b)(7) of the Texas Occupations Code

**Peter B. Merritt, LLC  
(Houston); License #517954**

Agreed 6 month suspension of broker license fully probated for 1 year, effective December 17, 2008; Agreed administrative penalty of \$11,000, entered December 17, 2008; broker negligent supervision of a sponsored licensee in failing to obtain a proper listing agreement on property, charging a transaction fee without the knowledge and consent of the parties to the transaction; failing to timely remit option fee monies to seller, failing to timely terminate a listing agreement, failing to ensure it is associating with an actively licensed salesperson, and paying commissions to unlicensed individuals, in violation §1101.652(b)(1) of the Texas Occupations Code; commingling money that belongs to another person with the license holder's own money, in violation of §1101.652(b)(10) 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; paying a commission or fee to or dividing a commission or a fee with a person other than a license holder or broker/salesperson in another state from compensation for services as a real estate agent, in violation of §1101.652(b)(11) of the Texas Occupations Code; and 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 §1101.652(b)(26) of the Texas Occupations Code

**Merritt, Peter Bryant  
(Houston); License #185826**

Agreed administrative penalty of \$1,000, entered December 17, 2008; broker negligent supervision of a sponsored licensee in failing to obtain a proper listing agreement on property, charging a transaction fee without the knowledge

**To renew your  
license you must  
pay a renewal fee.**

**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.

and consent of the parties to the transaction; failing to timely remit option fee monies to seller, failing to timely terminate a listing agreement, failing to ensure it is associating with an actively licensed salesperson, and paying commissions to unlicensed individuals, in violation of §1101.652(b)(1) of the Texas Occupations Code; commingling money that belongs to another person with the license holder's own money, in violation of §1101.652(b)(10) 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; paying a commission or fee to or dividing a commission or a fee with a person other than a license holder or broker/salesperson in another state from compensation for services as a real estate agent, in violation of §1101.652(b)(11) of the Texas Occupations Code; and 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 §1101.652(b)(26) of the Texas Occupations Code

### *Calendar of Events*

#### **Commission Meetings:**

**May 26, 2009**  
At 1:00 p.m.  
( Austin )

#### **Broker-Lawyer Committee Meetings:**

**April 3, 2009**  
( Austin )

#### **Education Committee Meetings:**

**April 1, 2009**  
( Austin )

#### **Broker Responsibility Committee Meetings:**

**March 30, 2009**  
( Austin )

#### **Inspector Committee Meetings:**

#### **Standards of Practice Subcommittee**

**March 30, 2009**  
( Austin )  
by teleconference

#### **Web site:**

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

#### **Phone**

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

#### **Hansel, Travis D.** (Colleyville); License #572782

Agreed reprimand of salesperson license, entered December 19, 2008; Agreed administrative penalty of \$500, entered December 19, 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)

#### **Nelson, Shirley Ann** (Spring Branch); License #202305

Agreed reprimand of broker license, entered December 31, 2008; Agreed administrative penalty of \$250, entered December 31, 2008; acting negligently or incompetently by failing to have the parties execute an amendment addressing repairs and failing to ensure that the buyer was aware that repairs had not been completed, in violation of Section 1101.652(b)(1) of the Texas Occupations Code

#### **Perez, Margaret** (Cypress); License #244158

Agreed 60-day suspension of salesperson license effective January 1, 2009; beginning February 1, 2009 the remaining 30 days fully probated for 1 year; Agreed administrative penalty of \$1,000, entered: January 1, 2009; 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); failing to make clear to all parties to a real estate transaction the party for whom the license holder is acting, in violation of §1101.559(a) of the Texas Occupations Code; failing within a reasonable time to deposit earnest money or obtaining the principals' written consent to delay the deposit of earnest money in a real estate transaction, in violation of 22 TAC §535.159(i)

#### **TIP, Inc.** (Austin); License #40517

Agreed 6 month suspension of broker license fully probated for 2 years, effective January 5, 2009; Agreed administrative penalty of \$2,000, entered January 5, 2009; acting negligently or incompetently in preparation of property management documentation, not maintaining adequate records and retaining supporting documentation for statements of repair, making repairs beyond amount authorized without client permission, and failing to investigate non-receipt of rents, in violation of §1101.652(b)(1) of the Texas Occupations Code; acting in bad faith toward the client in, violation of §1101.652(b)(2) of the Texas Occupations Code; failing within a reasonable period of time to account for or remit security and pet deposits received belonging to client under terms of property management agreement, in violation of §1101.652(b)(9) of the Texas Occupations Code; commingling security deposit monies belonging to client with own monies, in violation of §1101.652(b)(10) of the Texas Occupations Code; and, withholding from or inserting into monthly statements of account items known to be inaccurate in a material way, in violation of §1101.652(b)(24) of the Texas Occupations Code

#### **Corsetti, Anna L.** (Fort Worth); License #408702

Revocation of salesperson license, effective January 2, 2009; procuring or attempting to procure a license by fraud, misrepresentation, or deceit and by making a material misstatement of fact about her entering a plea of guilty or nolo contendere to a felony in an application for a license, in violation of 1101.652(a)(2) of the Texas Occupations Code; three counts of 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 §1101.652(a)(6) of the Texas Occupations Code

#### **Caesar, Gwendolyn Coffey** (Dallas); License #444943

Agreed revocation of broker license fully probated for 1 year, effective January 2, 2009; Agreed administrative penalty of \$1,000, entered January 2, 2009; acting negligently or incompetently and engaging in conduct that is dishonest or in bad faith or that demonstrates untrustworthiness in completing contract forms and structuring a broker's commission as a net listing to the disadvantage of an elderly seller, in violation of §1101.652(b)(1) and (2) of the Texas Occupations Code and 22 TAC §535.16(b); failing in her primary duty as real estate agent to represent the interests of the agent's client, placing a personal interest above that of her client, and using use her expertise to the disadvantage of a person with whom the licensee deals, in violation of 22 TAC § 531.1(1) and (3), and 22 TAC §535.144(b)

#### **Riddle, Noel** (Longmont, CO); License #N/A

Assessment of administrative penalty of \$3,000 and order to cease and desist unlicensed real estate brokerage activity, entered January 7, 2009; although never duly licensed as a real estate broker or salesperson, in December 2004, he individually or under the business name FL Marketing acted, engaged in, and represented that he or the business were a real estate broker or salesperson without first holding a license issued by the Texas Real Estate Commission when he assisted a buyer and new home seller in the marketing and negotiation of a new home sales contract for a fee, in violation of §1101.351(a) of the Texas Occupations Code; In 2008, acting, engaging in, and representing that he was a real estate broker or salesperson without first holding a license issued by the Texas Real Estate Commission when he advertised his services as a New Home Locator with the expectation of receiving a fee violation of §1101.351(a) of the Texas Occupations Code

**Davis, Kathryn  
(Mesquite); License #N/A**

Assessment of administrative penalty of \$3,000 and order to cease and desist unlicensed real estate brokerage activity, entered January 7, 2009; between 9/1/04 and 2/13/05, after expiration and before late renewal of her real estate salesperson license, acting, engaging in, and representing that she was a real estate broker or salesperson without first holding a license issued by the Texas Real Estate Commission by acting as an agent for others for a fee in real estate sales transactions wherein she represented she was an associate of her former sponsoring broker, in violation of §1101.351(a) of the Texas Occupations Code

**Diggles, David L.  
(De Soto); License #N/A**

Agreed administrative penalty of \$5,500, entered January 8, 2009; In 2005, he individually or under the business names Freshstart Investments or DLD Holdings acted, engaged in, and represented that he or the businesses were real estate brokers or salespersons without first holding a license issued by the Texas Real Estate Commission by conducting real estate brokerage services in 10 real estate sales transactions wherein he or the businesses received payments for real estate brokerage services described, in part, as legal services or payoff of a debt or loan owed by the seller, in violation of §1101.351(a) of the Texas Occupations Code; In 2006 he acted as a buyer's agent and held himself out as an associate of a duly licensed real estate broker without the broker's knowledge or consent in violation of §1101.351(a) of the Texas Occupations Code

**Seay, Edgar F.  
(Greenville, SC); License #N/A**

Assessment of administrative penalty of \$5,000 and order to cease and desist unlicensed real estate brokerage activity, entered January 9, 2009; acting in or engaging in the business of, or advertising or holding himself out as engaging in or conducting the business of a real estate salesperson without first obtaining a real estate license, in violation of §1101.351(a) of the Texas Occupations Code and acting as a broker or salesperson prior to receiving a license evidencing that authority prior to successfully passing the licensing exam and after application for licensure had expired, in violation of §1101.351(b) of the Texas Occupations Code

**Chris Von Holten Realtors, Inc.  
(Dallas); License #N/A**

Assessment of administrative penalty of \$1,000 and order to cease and desist unlicensed real estate brokerage activity, entered January 12, 2009; corporation was never duly licensed as a real estate broker and it acted, engaged in, and represented that it was a real estate broker without first holding a license issued by the Texas Real Estate Commission by conducting real estate brokerage services in a real estate transaction by and through Chris David Vonholten, a Texas real estate broker at that time, in violation of §1101.351(a) of the Texas Occupations Code

**Rosanky, Steven Lynn  
(Austin); License #267514**

Agreed 6 month suspension of broker license fully probated for 2 years, effective January 13, 2009; Agreed administrative penalty of \$1,000, entered January 13, 2009; acting negligently or incompetently in preparation of property management documentation, not maintaining adequate records and retaining supporting documentation for statements of repair, making repairs beyond amount authorized without client permission, and failing to investigate non-receipt of rents, in violation of §1101.652(b)(1) of the Texas Occupations Code; acting in bad faith toward the client, in violation of §1101.652(b)(2) of the Texas Occupations Code; failing within a reasonable period of time to account for or remit security and pet deposits received belonging to client under terms of property management agreement, in violation of §1101.652(b)(9) of the Texas Occupations Code; by commingling security deposit monies belonging to client with own monies, in violation of §1101.652(b)(10) of the Texas Occupations Code; and, withholding from or inserting into monthly statements of account items known to be inaccurate in a material way, in violation of §1101.652(b)(24) of the Texas Occupations Code

**Marinez, David Thomas Charles  
(San Antonio); License #368538**

Agreed reprimand of broker license, entered January 14, 2009; using the special provisions paragraph of a one to four family residential contract to negotiate a commission, in violation of §1101.652(b)(1) of the Texas Occupations Code

**Campbell, Vasha Tonique  
(Spring); License #588462**

Agreed revocation of salesperson license fully probated for 1 year, effective January 23, 2009; Agreed administrative penalty of \$500, entered January 23, 2009; failing within a reasonable time to make good a check issued to the Commission, 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)

**Ernest, Michael James  
(Southlake); License #327286**

Agreed reprimand of broker license, entered January 28, 2009; Agreed administrative penalty of \$250, entered January 28, 2009; acting negligently or incompetently when a person who had been sponsored by him as an associate real estate salesperson, continued without his knowledge or consent to act as a licensed real estate salesperson and associate of the broker after the expiration of the salesperson's license, in violation of §1101.652(b)(1) of the Texas Occupations Code; using a name in his real estate brokerage that gave the appearance it was a business entity duly organized and existing under the Texas Business Organization Code when in fact it was not and Mr. Ernest did not timely notify the Commission, in writing of his use of the business name in violation of §1101.652(b)(23) of the Texas Occupations Code

**Tate, Ronald Clifton  
(Shavano Park); License #400963**

Agreed reprimand of broker license, entered January 29, 2009; agreed administrative penalty of \$1,000, entered January 29, 2009; improperly associating with an unlicensed limited liability company that was engaging in real estate brokerage activities, in violation of §1101.652(b)(26) of the Texas Occupations Code

**As of 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.**

(Continued from page 1)

vertisements of persons soliciting business in people's homes (including by mail, e-mail, phone, etc.).

**HB 1356** by Isett - Would add an employee of a property management company who shows and leases condominiums on behalf of the management company that has been hired by a condominium unit owners' association for the purpose of leasing units to those individuals exempted from the licensing requirements by §1101.005 of the Texas Occupations Code.

**HB 1405** by Geren - Creates licensure requirement for landmen, including pre-licensing and continuing education, examination, and scope of practice requirements to be determined and implemented by TREC. See also SB 1154.

**HB 3738** by Isett - Would require accredited schools, colleges, and universities to register with the Commission and take greater responsibility for the content and presentation of correspondence courses offered by or through those institutions. Would require TREC to develop a list of approved textbooks and a process for adding books thereto. Would extend 55% exam pass rate requirements to registered schools, colleges, and universities.

For more information regarding the 81st Regular Session of the Texas Legislature and other pending legislation, the Texas Legislature's website is [www.capitol.state.tx.us](http://www.capitol.state.tx.us)

**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><b>Perreault, Deborah A.</b> (Las Vegas, NV); License #512482 Agreed revocation of salesperson license fully probated for one year, effective December 1, 2008; Agreed administrative penalty of \$500, entered: December 1, 2008</p>	<p><b>Woodworth, Roderick S. III</b> (Missouri City); License #553843 Agreed reprimand of salesperson license, entered December 2, 2008; Agreed administrative penalty of \$500, entered December 2, 2008</p>	<p><b>Lewis, Kenneth B. Jr.</b> (Burleson); License #517442 Agreed reprimand of salesperson license, entered December 2, 2008; Agreed administrative penalty of \$500, entered December 2, 2008</p>
<p><b>Gonzales, Deborah Lee</b> (Dallas); License #489942 Agreed revocation of salesperson license fully probated for 1 year, entered December 5, 2008; Agreed administrative penalty of \$500, entered December 5, 2008</p>	<p><b>Paroo, Shahin N.</b> (Plano); License #504387 Agreed reprimand of salesperson license, entered December 10, 2008; Agreed administrative penalty of \$500, entered December 10, 2008</p>	<p><b>Kreller, Wayne Winslow</b> (Lubbock); License #568309 Revocation of salesperson license, effective December 18, 2008</p>
<p><b>Perritte, Lindsey Anne</b> (Southlake); License #555159 Agreed reprimand of salesperson license, entered December 19, 2008; Agreed administrative penalty of \$500, entered December 19, 2008</p>	<p><b>Posas, Chrisann Bray</b> (Lyford); License #508701 Revocation of salesperson license, effective December 31, 2008</p>	<p><b>Clemm, Stacy Renee</b> (Dallas); License #553453 Agreed reprimand of salesperson license, entered December 31, 2008; Agreed administrative penalty of \$500, entered December 31, 2008</p>
<p><b>Josefa Ponce</b> (San Antonio); License #520288 Agreed reprimand of salesperson license, entered December 31, 2008; Agreed administrative penalty of \$500, entered December 31, 2008</p>	<p><b>Qualls, Stacy Strom</b> (Dripping Springs); License #53397 Agreed revocation of salesperson license fully probated for 18 months, effective January 12, 2009; Agreed administrative penalty of \$500, entered January 12, 2009</p>	<p><b>Hall, Brandon Dow</b> (McKinney); License #495278 Agreed reprimand of salesperson license, entered: January 14, 2009; Agreed administrative penalty of \$500, entered January 14, 2009</p>
<p><b>Cisneros, Chris L.</b> (San Antonio); License #434294 Agreed revocation of salesperson license fully probated for 2 years, effective January 15, 2009; Agreed administrative penalty of \$750, entered January 15, 2009</p>	<p><b>Nguyen, Tri M.</b> (Houston); License #571386 Revocation of salesperson license, effective January 21, 2009</p>	<p><b>McClendon, Cynthia Carlette</b> (Houston); License #451534 Revocation of salesperson license, effective January 21, 2009</p>
<p><b>Owens, Dione Renee</b> (Austin); License #553908 Revocation of salesperson license, effective January 21, 2009</p>	<p><b>Drankoski, Michael David</b> (Dallas); License #553379 Revocation of salesperson license, effective January 21, 2009 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>	<p><b>Garcia, Salvador, Jr.</b> (Houston); License #553581 Agreed reprimand of salesperson license, entered January 21, 2009; Agreed administrative penalty of \$750, entered January 21, 2009</p>
<p><b>McCune, James Edward, Jr.</b> (Houston); License #283578 Agreed revocation of salesperson license fully probated for 2 years, effective January 23, 2009; Agreed administrative penalty of \$750, entered January 23, 2009</p>	<p><b>Johnson, Betty E.</b> (Lewisville); License #257332 Agreed revocation of salesperson license, effective January 26, 2009</p>	

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

<p><b>Thornton, Angie Gail</b> (Amarillo); License #494988 Agreed reprimand of salesperson license, entered January 29, 2009; Agreed administrative penalty of \$750, entered January 29, 2009</p>		
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