



# TREC Advisor

*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.*

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## TREC Housekeeping Takes Effect

*Senate Bill 747, the TREC housekeeping bill, will become law on September 1, 2011. The following provisions of the bill go into effect on September 1.*

- ◆ All licensed business entities will be required to have errors and omissions insurance of at least \$1 million if the designated broker for the entity (active broker in good standing) owns less than 10% of the entity.
- ◆ A business entity that receives compensation on behalf of a license holder is required to be licensed as a broker. This requirement is already in the rules.
- ◆ A domestic or foreign business entity that engages in real estate brokerage and that is formed under or governed by the Business Organizations Code will be required to be licensed as a broker, including a partnership. A sole proprietorship does not need to have a broker's license.
- ◆ The definition of "broker" is amended to clarify the distinction between a written price opinion routinely performed by a broker and an appraisal of real property that requires licensure under Occupations Code Chapter 1103.
- ◆ A person who controls the collection or acceptance of rent from a resident of a single family residential unit will be required to have a broker or sales license.
- ◆ An attorney licensed in a state other than Texas will need to be licensed in Texas if the attorney engages in real estate brokerage in this state.
- ◆ Applicants will be required to provide to and notify the commission of any changes to the person's current mailing address, telephone number and email address, if available.
- ◆ The period of time in which an applicant must satisfy an examination requirement will change from six months to one year.
- ◆ The maximum period of time in which a person can "late renew" a license with monetary penalties decreases from one year to six months. If a license has been expired for six months or longer, the license may not be renewed.
- ◆ The commission will be able to impose the same types of disciplinary action against educational programs accredited by the commission as it imposes against other types of licenses regulated by the commission.
- ◆ The commission will be authorized to deny accreditation of an education program if an applicant owns or controls, or has previously owned or controlled an educational program that has been revoked.

*For more on Senate Bill 747, click on the "What's New" section of the TREC Home Page.*





**Avis Wukasch, Chair**

The most recent Commission meeting on August 1<sup>st</sup> was over six hours long, but looking back I cannot imagine not having included any of the items we needed to consider. Our new members received the proverbial “baptism by fire”. It included an extensive set of proposed rules resulting from the passage of SB 747 and SB 1000 last legislative session.

I encourage each of you to take the time to go onto the agency’s website ([www.trec.texas.gov](http://www.trec.texas.gov)), under the Forms, Laws & Rules tab, and select “Rules” in the left menu bar, or go to the Texas Secretary of State’s *Texas Register* (<http://www.sos.state.tx.us/texreg/index.shtml>), read the proposed rules and give us your thoughts. Your participation in the process results in better public policy decisions. Protecting the public through better education of license holders, strong licensing standards, and fair, predictable disciplinary procedures is a constant goal of this agency.

Over the past month, the Administrator, General Counsel and I have been speaking to various local boards and other groups of license holders to preview and explain the coming changes and to ensure we hear and answer your questions. TAR has included several articles in their weekly electronic newsletter and in recent issues of the monthly *Texas Realtor* magazine to ensure brokers and agents are aware of all changes and deadlines. We thank the Association for its assistance in getting the word out. More information will be made available in various sessions at their annual convention in Austin in mid-September.

TREC’s electronic newsletter has also detailed each change and outlined the processes for soliciting your input. In addition, the Education Working Group and the Broker Responsibility Working Group that we appointed are working hard on gathering additional input and researching options to make sure their recommendations to the Commission for future strengthening of rules are based on solid data and sound analysis. Their meetings are also posted and open to the public. Your participation is encouraged and welcomed.

Transitioning to Self Directed Semi Independent status on September 1<sup>st</sup> will bring new opportunities for the agency. Look for a modest fee increase for license applications and renewals before the year is out in order to fund the required annual contribution to the General Revenue that is required under SB 1000. However, you can also anticipate other areas where cost savings will be expressed in lower fees. Our online tools are leading the way in cost reductions, so the more you take advantage of these, the less funding the agency will need.

Wishing you all the best as this record HOT summer winds down and the school year ramps up. Stay safe, stay cool, and pray for rain. Happy Labor Day to all of us workers!

### ***Important Dates to Remember***

TREC Commission Meeting—October 10

TREC Commission Meeting—December 5

**ADOPTED RULES**

**Chapter 535, General Provision**

**Subchapter Q. Administrative Penalties**

22 TAC §535.191

Section 535.191 was amended to add additional provisions that apply to the schedule and to move an existing provision that should more appropriately fit under a different range. *Effective 9-1-2011*

**Subchapter R. Real Estate Inspectors**

2 TAC §535.219

The new section establishes a penalty matrix for the assessment of administrative penalties for different violations of the statute and rules governing real estate inspectors. The matrix was drafted in accordance with §1102.403 of the Texas Occupations Code (relating to administrative penalties imposed against inspectors) and Chapter 1101, Subchapter O (relating to administrative penalties assessed by the Commission). As such, the highest category of administrative penalties provides for a maximum penalty of \$5,000 per violation, and each day a violation continues or occurs may be considered a separate violation for purposes of imposing a penalty. *Effective 9-1-2011*

**Chapter 537, Professional Agreements and Standard Contracts**

22 TAC §537.20, §537.28, §537.30, §537.31, §537.32, and §537.37

TREC adopted amendments to 22 TAC §537.20, concerning Standard Contract Form TREC No. 9-8, Unimproved Property Contract; §537.28, concerning Standard Contract Form TREC No. 20-9, One to Four Family Residential Contract (Resale); §537.30, concerning Standard Contract Form TREC No. 23-10, New Home Contract (Incomplete Construction); §537.31, concerning Standard Contract Form TREC No. 24-10, New Home Contract (Completed Construction); §537.32, concerning Standard Contract Form TREC No. 25-7, Farm and Ranch Contract; and §537.37, concerning Standard Contract Form TREC No. 30-8, Residential Condominium Contract (Resale) without changes to the proposed language of the rule but with changes to the forms. The web address and phone number for the agency were updated in the final adoption of the forms. The amendments adopt by reference six revised contract forms for use by Texas real estate licensees.

- The amendment to §537.20 adopts by reference Standard Contract Form TREC No. 9-9, Unimproved Property Contract. The revision is the same as that for Form TREC No. 20-10. Also, typographical errors in paragraph 7 are corrected.

- The amendments to §537.28 adopts by reference Standard Contract Form TREC No. 20-10, One to Four Family Residential Contract (Resale). Paragraph 15 was revised to delete subparagraph 15B. This change to all six of the forms was adopted on an emergency basis at the February meeting of the Commission with an effective date of March 1, 2011.
- The amendment to §537.30 adopts by reference Standard Contract Form TREC No. 23-11, New Home Contract (Incomplete Construction). The revision is the same as that for Form TREC No. 20-10.
- The amendment to §537.31 adopts by reference Standard Contract Form TREC No. 24-11, New Home Contract (Completed Construction). The revision is the same as that for Form TREC No. 20-10. Also, typographical errors in paragraph 7 are corrected.
- The amendment to §537.32 adopts by reference Standard Contract Form TREC No. 25-8, Farm and Ranch Contract. The revision is the same as that for Form TREC No. 20-10.
- The amendment to §537.37 adopts by reference Standard Contract Form TREC No. 30-9, Residential Condominium Contract (Resale). The revision is the same as that for Form TREC No. 20-10. *Effective 8-23-2011*

**RULES ADOPTED BY EMERGENCY ACTION**

The amendments to the following rules are adopted on an emergency basis to implement the relevant provisions of Senate Bill 747, 82<sup>nd</sup> Session, Texas Legislature, Regular Session (2011). The effective date of the relevant provisions of SB 747 is September 1, 2011. The adoption of the amendments is necessary to comply with the effective date of the bill.

**Chapter 535, General Provision**

**Subchapter B. General Provisions Relating to the Requirements of Licensure**

22 TAC §535.17. Appraisals.

In relevant part, SB 747 amended Texas Occupations Code, §1101.002 to delete appraisals from the laundry list of activities that are considered real estate brokerage. In addition SB 747 added a new item to the list regarding broker price opinions.

The amendments to §535.17 clarify that a real estate licensee must be licensed under Texas Occupations Code, Chapter 1103 to conduct real estate appraisals. Further the rule is amended to provide that if a broker or salesperson provides a broker price opinion under Chapter 1101, the opinion must provide a written disclosure as provided in the rule. *Effective 9-1-2011*

## Rule Actions Continued..

### Subchapter C. Exemptions from Licensure

22 TAC §535.31. Attorneys at Law.

In part, SB 747 amends Texas Occupations Code, §1101.005 regarding an exemption for attorneys. The amendment now exempts attorneys licensed in the State of Texas; it previously applied to attorneys licensed in any state. *Effective 9-1-2011.*

### Subchapter E. Requirements for Licensure

22 TAC §535.50 regarding Definitions, §535.51 regarding General Requirements and §535.53 regarding Corporations and Limited Liability Companies

In relevant part, SB 747 amends Texas Occupations Code, §1101.401 to expand from six months to one year the period of time in which an applicant may satisfy an examination requirement from the date the application is filed. In addition, the application and renewal requirements for business entities were changed in §§1101.355 and 1101.453 to require that business entities applying for and renewing a broker license must provide proof that the entity maintains errors and omissions insurance with a minimum annual limit of \$1 Million if the designated broker owns less than 10 percent of the entity. Finally SB 747 amends Chapter 1101 to delete the exemption from licensing for partnerships in which a general partner is a broker and requires licensure as a broker for any business entity as defined in Section 1.002 of the Business Organizations Code. Emergency action is necessary to amend §535.50, §535.51, and §535.53 to be consistent with SB 747.

The amendments to §535.50 amend the list of definitions to define a designated broker of a business entity and to clarify that the designated broker must be an officer of a corporation, a manager of a limited liability company or a general partner of a partnership. The amendments to §535.51 clarify that an applicant must meet education and experience requirements before the applicant may take a qualifying examination. The amendments to §535.53 change the title of the rule to apply to all business entities, not just corporations and limited liability companies, to add partnerships to the types of business entities that must be licensed, and to address the requirement that business entities must maintain errors and omissions insurance if the designated broker owns less than 10 percent of the entity. *Effective 9-1-2011*

### Subchapter I Licenses

22 TAC §535.93 §535.93, regarding Late Renewal Applications

In relevant part, SB 747 amended Texas Occupations Code, §1101.451 to change the maximum period of time in which a licensee can file a late renewal from one year to six months. The

amendments to §535.93 change to six months any references to the one year period for filing a late renewal. *Effective 9-1-2011.*

### Subchapter J. Fees

22 TAC §535.101. Fees

In relevant part, SB 747 amended Texas Occupations Code, §1101.451 to change the maximum period of time in which a licensee can file a late renewal from one year to six months. The amendments to §535.101 change to six months the reference to the one year period for filing a late renewal in subsection (b)(11). *Effective 9-1-2011.*

### Subchapter M. Nonresidents

22 TAC §535.132. Eligibility for Licensure

In relevant part, SB 747 amends Texas Occupations Code, Chapter 1101 to delete the exemption from licensing for partnerships in which a general partner is a broker and requires licensure as a broker for any business entity as defined in §1.002 of the Business Organizations Code. Emergency action is necessary to amend §535.132 to be consistent with SB 747.

The amendment to §535.132 makes emergency conforming changes to be consistent with the statutory text amended by SB 747. *Effective 9-1-2011.*

### Subchapter N. Suspension and Revocation of Licensure

22 TAC §535.141. Initiation of Investigation

In relevant part, SB 747 amends Texas Occupations Code, Chapter 1101 to delete the exemption from licensing for partnerships in which a general partner is a broker and requires licensure as a broker for any business entity as defined in §1.002 of the Business Organizations Code. Emergency action is necessary to amend §535.141 to be consistent with SB 747.

The amendments to §535.141 clarify that the rule applies to all business entities that are required to have a broker license under Chapter 1101, and to make conforming changes to the rule to be consistent with other rules that have been adopted on an emergency basis due to the September 1, 2011 effective date of the relevant provisions of SB 747.

### PROPOSED RULES

The amendments to the following rules, except those proposed to §535.101 and §535.210, are proposed to implement the relevant provisions of Senate Bill 747 (SB 747), 82nd Texas Legislature, Regular Session (2011).

**Rule Actions Continued..****Chapter 535, General Provision****Subchapter B. General Provisions Relating to the Requirements of Licensure**

## 22 TAC §535.17. Appraisals

In part, SB 747 amends Texas Occupations Code, §1101.002 to delete appraisals from the laundry list of activities that are considered real estate brokerage which require licensure as a real estate broker or salesperson. In addition SB 747 adds a new item regarding broker price opinions. Because the effective date of the relevant provisions of SB 747 is September 1, 2011, the commission is simultaneously taking emergency action to amend §535.17 to be consistent with SB 747.

The amendments to §535.17 clarify that a real estate licensee must be licensed under Texas Occupations Code, Chapter 1103 to conduct real estate appraisals. Further, the rule is amended to provide that if a broker or salesperson provides a broker price opinion under Chapter 1101, the opinion must provide a written disclosure as provided in the rule.

**Subchapter C. Exemptions from Licensure**

## 22 TAC §535.31. Attorneys at Law

In part, SB 747 amended Texas Occupations Code, §1101.005 regarding an exemption for attorneys. The amendment now exempts attorneys licensed in the State of Texas; it previously applied to attorneys licensed in any state. Because the effective date of the relevant provisions of SB 747 is September 1, 2011, the commission is simultaneously taking emergency action to amend §535.31 to be consistent with SB 747.

The amendments to §535.31 clarify that the exemption only applies to attorneys licensed in the State of Texas.

**Subchapter E. Requirements for Licensure**

22 TAC §535.50. Definitions; §535.51. General Requirements for a License; §535.53. Corporations and Limited Liability Companies; §535.55. Education Requirements for a Salesperson License; and §535.56. Education and Experience Requirements for a Broker License

In relevant part, SB 747 amends Texas Occupations Code, §1101.401 to expand from six months to one year the period of time in which an applicant may satisfy an examination requirement from the date the application is filed. In addition, the application and renewal requirements for business entities were changed in Texas Occupations Code, §1101.355 and §1101.453 to require that business entities applying for and renewing a broker license must provide proof that the entity maintains errors and omissions insurance with a minimum annual limit of \$1 million if the designated broker owns less than 10 percent of the entity. Finally SB 747 amends

Chapter 1101 of the Texas Occupations Code to delete the exemption from licensing for partnerships in which a general partner is a broker and requires licensure as a broker for any business entity as defined in §1.002 of the Business Organizations Code. Emergency action is simultaneously being taken to amend §§535.50, 535.51, and 535.53 to be consistent with SB 747 because the effective date of those provisions is September 1, 2011.

The amendments to §535.50 amend the list of definitions to define a designated broker of a business entity, to clarify that the designated broker must be an officer of a corporation, a manager of a limited liability company or a general partner of a partnership, and to incorporate the relevant provisions regarding the new broker responsibility continuing education course required under amendments to §1101.458 of the Act. The amendments to §535.51 clarify that an applicant must meet education and experience requirements before the applicant may take a qualifying examination. The amendments to §535.53 change the title of the section to apply to all business entities, not just corporations and limited liability companies, to add partnerships to the types of business entities that must be licensed, and to address the requirement that business entities must maintain errors and omissions insurance if the designated broker owns less than 10 percent of the entity.

Regarding the amendments to §535.55 and §535.56, 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. Under current §535.55, the commission has waived the education required for a salesperson license for an applicant who was licensed in the preceding six years and otherwise meets the requirements of the section. The proposed amendment to §535.55 would change the period from six years to two years so that an applicant who was licensed as a salesperson or broker in the preceding two years and otherwise meets the requirements of the section regarding MCE could apply for a salesperson license. Similarly, under current §535.56(a), the commission has waived the education and experience required for a broker license for a broker who was licensed in the preceding four years and otherwise meets the requirements of the subsection. The proposed rule would change the period from four years to two years and delete the reference to a salesperson so that a broker who had an active license in two of the preceding four years and otherwise meets the requirements of the section regarding MCE could apply for a broker license without meeting the new experience requirements.

In addition, amendments to §535.56 would add the rules required by amendments to §1101.356(b-1) of the Act to establish active experience requirements to apply for a broker license under §1101.356 and §1101.357 of the Act. An applicant would be required to establish that the applicant has obtained 3600 points of active experience with documentary

## *Rule Actions Continued..*

evidence and a statement from the applicant's sponsoring broker at the time the experience was earned. Certain types of transactions would be worth a certain number of points and the applicant would be required to use the forms adopted by reference in the rule to summarize the transactions. An applicant would be able to continue to gain experience after an application has been submitted until such time that the applicant meets the total number required but before the applicant may take the qualifying examination. Experience earned after the application is submitted would be reported on a different form adopted by reference in the rule. If an applicant is unable to obtain sufficient documentation and/or the signature of the sponsoring broker, the applicant would be required to use an affidavit adopted by reference in the rule to describe the applicant's efforts to obtain the documentation and/or signatures. In addition, the applicant would be required to provide two additional affidavits each signed by a different individual familiar with the applicant's circumstances and attesting to the applicant's efforts to obtain the appropriate documentation. Finally, the rule would give the commission the discretion to request additional documentation, rely on the documentation provided under this subsection, or utilize any other information provided by the applicant to determine whether the applicant has sufficient experience as required by §1101.356 of the Act and §535.56.

### **Subchapter F. Pre-License Education and Examination**

#### 22 TAC §535.63. Accreditation of Core Education Schools

In relevant part, SB 747 amends Texas Occupations Code, §1101.301 to require the commission to adopt rules setting an examination passage rate benchmark for each category of license issued under Chapter 1101 and Chapter 1102, Texas Occupations Code.

The amendment to §535.63 establishes the method in which the benchmark passage rate would be calculated for each license category and makes other conforming changes to be consistent with the amendments made by SB 747.

### **Subchapter G. Mandatory Continuing Education**

#### 22 TAC §535.71. Approval of Providers, Courses and §535.72. Presentation of Courses, Advertising and Records

In relevant part, SB 747 amends Texas Occupations Code, §1101.458 to require a broker who sponsors a salesperson and a licensee who supervise another licensee to take a six-hour broker responsibility course to renew a license.

The amendments to §535.71 and §535.72 provide the method by which the commission will create and approve the broker responsibility course, which will be the same way it handles the three-hour legal

update and three-hour ethics courses required under §1101.455, and provides conforming changes for consistency.

### **Subchapter I Licenses**

#### 22 TAC §535.91. Renewal Notices, §535.93. Late Renewal Applications, and §535.96. Mailing Address and Other Contact Information

In part, SB 747 amends Texas Occupations Code, §1101.451 to change the maximum period of time in which a licensee can file a late renewal from one year to six months, amends §1101.458 to require that certain licensees take a six hour broker responsibility course to renew a license, and amends the requirements in §1101.552 for license holders to provide and maintain certain contact information with the commission, including an email address if available. Because the effective date of certain provisions of SB 747 is September 1, 2011, the commission is simultaneously taking emergency action to amend §535.93 to be consistent with SB 747.

The amendments to §535.91 clarify that a broker who sponsors salespersons, a designated broker of a business entity, and a license holder who is a delegated supervisor of one or more licensees under §535.2 for six months or more during the course of the current license must take the six hour broker responsibility course to renew a license. The amendments to §535.93 change to six months any references to the one year period for filing a late renewal. The amendments to §535.96 clarify that licensees must provide and maintain contact information with the commission, including an email address if available.

### **Subchapter J. Fees**

#### 22 TAC §535.101. Fees

TREC proposes amendments to §535.101, relating to Fees. The amendments would increase the salesperson and broker application fees from \$105 to \$119, the annual renewal fees for brokers and salespersons from \$34 to \$39; the late renewal fee from \$51 to \$58.50 for the annual late renewal of a real estate salesperson or broker license for a person whose license has been expired 90 days or less; and late renewal fee from \$68 to \$78 for the annual late renewal of a real estate salesperson or broker license for a person whose license has been expired more than 90 days but less than six months. The amendments also change the maximum late renewal period from six months to one year and remove a reference to an application in the fee for moral character determination.

The justification for the fee increases is to generate sufficient revenue to fund operations of the agency and to comply with requirements of Senate Bill 1000, 82nd Texas Legislature, Regular Session (2011).

## *Rule Actions Continued..*

### **Subchapter N. Termination of Salesperson's Association with Sponsoring Broker**

22 TAC §535.121. Inactive License and §535.122.

#### Reactivation of License

In part, SB 747 amends Texas Occupations Code, Chapter 1101 regarding the treatment of business entities who engage in real estate brokerage activity.

The amendments to §535.121 make conforming changes to be consistent with other rules that are being simultaneously proposed to implement the requirements of Senate Bill 747, 82nd Texas Legislature, Regular Session (2011). The amendments to §535.122 clarify that a salesperson on inactive status may act as the broker's salesperson from the date the notice and fee are mailed or delivered to the commission as long as the salesperson otherwise meets MCE requirements.

### **Subchapter M. Nonresidents**

22 TAC §535.132 Eligibility for Licensure

In relevant part, SB 747 amends the Texas Occupations Code Chapter 1101 to delete the exemption from licensing for partnerships in which a general partner is a broker and requires licensure as a broker for any business entity as defined in §1.002 of the Business Organizations Code.

The amendments to §535.132 make conforming changes to be consistent with proposed changes to §535.55 and §535.56 regarding waiver of education or experience requirements for a salesperson or broker license, and change the references from individual business entity types to "business entity" to make conforming changes to be consistent with the statutory text amended by SB 747.

### **Subchapter N. Suspension and Revocation of Licensure**

22 TAC §535.141 Initiation of Investigation

In relevant part, SB 747 amends Texas Occupations Code, Chapter 1101 to delete the exemption from licensing for partnerships in which a general partner is a broker and requires licensure as a broker for any business entity as defined in §1.002 of the Business Organizations Code. Because the effective date of the relevant provision in SB 747 is September 1, 2011, the commission is simultaneously taking emergency action to amend §535.141 to be consistent with SB 747 on that date.

The amendments to §535.141 clarify that the rule applies to all business entities that are required to have a broker license under Chapter 1101 and to make conforming changes to the rule to be consistent with other rules that have been adopted on an emergency basis due to the September 1, 2011 effective date of the relevant provisions of SB 747.

### **Subchapter R. Real Estate Inspectors**

22 TAC §535.210

TREC proposes amendments to §535.210, regarding Inspector Fees. The amendments would increase the professional inspector application fee from \$90 to \$104, the real estate inspector application fee from \$75 to \$89, and the apprentice inspector application fee from \$35 to \$84, the annual renewal fees for professional and real estate inspectors from \$27 to \$32, and the annual renewal fee for an apprentice inspector from \$22 to \$27.

The justification for the fee increases is to generate sufficient revenue to fund operations of the agency and to comply with requirements of Senate Bill 1000, 82nd Texas Legislature, Regular Session (2011).



### **Congratulations goes to Mariah Jackson for earning Outstanding Performer of the Quarter!**

Mariah has been an indispensable member of the TREC staff for almost four years. Most notably for the last six months Mariah has been in charge of preparing the agency file room for the big move to its new home in the Stephen F. Austin Building. Ms. Jackson does an impeccable job managing multiple projects including the all important agency document imaging project. The agency's flawless move would not have been possible without her hard work and dedication.

*Congratulations and Thank You Mariah!*

The Texas Real Estate Commission voted at its August 1st meeting to appoint Charlie Still of Arlington and Gregg Glenn of Amarillo as broker members of the Texas Real Estate Broker-Lawyer Committee, with terms expiring August 31, 2017. The Broker-Lawyer Committee drafts and revises standard real estate contract forms to bring consistency to real estate transactions and minimize potential controversy in accordance with the Texas Real Estate License Act.

Charlie Still has been an active broker since 1982 with over 29 years of experience working with TREC's promulgated forms. He has been the principal broker of Still Brothers & Associates since 1987. Mr. Still has served on and chaired numerous committees at the Arlington Board of REALTORS and was President of the Board in 2011. Still was recognized as REALTOR of the year in 1996, and in 2007 he was the recipient of the Edgar Bird Award from the Arlington Board of REALTORS. Mr. Still earned a Bachelor of Business Administration degree in 1982 from Stephen F. Austin State University.

Gregg Glenn has been the Broker/Owner of Prudential Ada, REALTORS since 1983. Mr. Glenn has served as president of the Amarillo Association of REALTORS, director and regional vice president for the Texas Association of

REALTORS and president of the Texas chapter of Certified Real Estate Brokers. He has been named REALTOR of the year by the Amarillo Association of REALTORS and received the Ebby Halliday Award for Excellence in Real Estate Management by the Texas Chapter of CRB. Glenn graduated from Texas Tech University in 1974 with a Bachelor of Business Administration degree in Marketing.

In addition to these appointments made by the Commission, Bo Blackburn was appointed as a lawyer member on the committee by the State Bar of Texas. Mr. Blackburn is a partner at Almanza, Blackburn & Dickie LLP, in Austin, focusing on residential and commercial real estate litigation, among other areas practice. Blackburn received his undergraduate degree at University of Texas at Austin in 1994 and a Juris Doctor, cum laude, from Texas Tech University in 1998.

TREC has a challenging mission and these new appointees will play key roles in protecting consumers of real estate related services in the state of Texas. The agency welcomes the contributions of these new volunteer members and thanks them for their willingness to serve.

### ***Focus Group Volunteers Needed***

The Texas Real Estate Commission needs your help! After months of preparation, the agency is testing out its new user interface for "My License Online Services". These volunteers will participate by using the new product on their own time in their own homes and submitting a survey to TREC staff electronically. Comments and suggestions will be taken into consideration and will help staff make changes in order to make the product even more user friendly. TREC staff is looking for all license types, ages, and most importantly, a wide range of computer literacy.

Please contact Christine Anderson at 512-936-3091 or at [Christine.Anderson@trec.texas.gov](mailto:Christine.Anderson@trec.texas.gov) to volunteer.



**TREC Enforcement Matters****Crist, Jeremy Martin (Fort Worth); License #600579**

Agreed 2 year suspension of salesperson license, effective July 28, 2011. Beginning October 28, 2011 the suspension be fully probated for 21 months; Agreed administrative penalty of \$1,000, effective July 28, 2011 engaging in unlicensed real estate brokerage activity in Texas prior to obtaining his first Texas real estate license by doing residential leasing for various owners in a property management situation, in violation of Tex. Occ. Code §1101.351(a); procuring or attempting to procure a license for himself by failing to disclose in his salesperson application his unlicensed residential leasing activity, in violation of Tex. Occ. Code §1101.652(a)(2); and after obtaining his first Texas real estate license, 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 Tex. Occ. Code §1101.652(b)(26).

**Inzar, Varrick Montez (Keller); License #564897** 2 year suspension of salesperson license, effective July 27, 2011; Assessment of an administrative penalty of \$6,500, effective July 27, 2011 procuring a license by fraud, misrepresentation or deceit by making material misstatements of material fact in the application for a salesperson license during renewals in 2007 and 2009 not disclosing adjudications or deferred adjudications of guilt in several felony charges that occurred out of Texas, in violation of Tex. Occ. Code §1101.652(a)(2); and failing to provide within a reasonable time information requested by the Commission that relates to a formal complaint filed to investigate this, in violation of Tex. Occ. Code §1101.652(a)(6).

**Bentley, Chad Ryan (Dallas); License #601655**

Revocation of salesperson license, effective July 13, 2011; Assessment of an administrative penalty in the amount of \$1,500, effective July 13, 2011 procuring a license by fraud, misrepresentation or deceit by making material misstatements of material fact in the application for a salesperson license discovered during a background investigation after being issued a 1 year probated license by Agreed Order on or about January 11, 2011, not disclosing an undiscovered criminal charge requiring sex offender registration, in violation of Tex. Occ. Code §1101.652(a)(2); and failing to provide within a reasonable time information requested by the Commission that relates to a formal complaint filed to investigate this in, violation of Tex. Occ. Code §1101.652(a)(6).

**Ice, Mishan Nazeri (Dallas); License #552064** Agreed surrender of broker license, effective July 12, 2011; Agreed to not file an application to obtain any license or certificate issued by the Commission for a term of (6) years from July 12, 2011 negligence or incompetence in the supervision of sponsored salespersons and brokerage offices by signing blank Commission forms and turning them over to a salesperson without retaining a copy of what was signed; making no effort to determine whether persons that performed brokerage services within the entities she sponsored actually held real estate licenses; failing to train, supervise, or monitor the activities of sponsored salespersons; and allowing a salesperson sponsored under a different broker license to manage persons and conduct real estate operations associated with her other real estate licenses, in violation of Tex. Occ. Code §1101.652(b)(1); 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 Tex. Occ. Code §1101.652(b)(26); 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, while acting as a broker or salesperson, in violation of Tex. Occ. Code §1101.652(b)(9); a broker accepting monies belonging to others without maintaining a trust account, in violation of 22 Tex. Admin. Code §535.159(a); allowing unlicensed persons to operate a rental agency or rental agencies while in association with her brokerage operations, in violation of 22 Tex. Admin. Code §535.13(c) (June 1, 2008) [now 22 Tex. Admin. Code 535.4(h)]; and allowing unlicensed employees, agents or associates of a licensed broker, including a corporation or limited liability company licensed as a broker, to direct or supervise other persons who perform acts for which a license is required and/or to solicit business for the broker or hold themselves out as authorized to act as real estate brokers or salespersons, in violation of 22 Tex. Admin. Code 535.1(d) (June 1, 2008) [now 22 Tex. Admin. Code 535.4(d)].

**Valentino, James Charles (Houston); License #451094**

Revocation of broker license, effective July 11, 2011; Assessment of an administrative penalty of \$10,500, effective July 11, 2011 failing to provide within a reasonable time information requested by the Commission that related to a complaint and failing to produce on request for inspection by the Commission documents, records or books in the broker's possession, in violation of Tex. Occ. Code §§1101.652(a)(5) and (6); salesperson sponsored by broker maintained a web site that tended to create a misleading impression, the web site caused the public to

**TREC Enforcement Matters Continued...**

believe unlicensed persons were authorized to conduct and engage in real estate brokerage, and the web site appeared to establish an association with unlicensed persons who were acting as licensees, in violation of Tex. Occ. Code §§1101.652(b)(23) and (26) and 22 Tex. Admin. Code §535.154(g)(2); failing to notify the Commission within 30 days after a salesperson sponsored by the broker began using an assumed name in business other than the name in which the person was licensed, in violation of 22 Tex. Admin. Code §535.154(e); and failing to comply with his responsibilities and duties as a broker by failing to ensure advertising by a salesperson sponsored by the broker complied with the Commission's Rules on advertising, in violation of 22 Tex. Admin. Code §535.2(g).

**Hebert, Corey Rhea (New Braunfels); License #20229** Agreed 1 year probationary professional inspector license issued, effective July 14, 2011 commission of an offense that directly relates to the duties and responsibilities of the occupation of a licensed professional inspector under 22 Tex. Admin. Code §541.1(a). Applicant provided documentation addressing the factors outlined in 22 Tex. Admin. Code §541.1(c) and demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be licensed as a professional inspector under Tex. Occ. Code §1102.109(4).

**Garcia, Carlos Castillo (San Antonio); License #614518** Agreed probationary salesperson license issued until February 28, 2014, effective July 21, 2011 commission of an offense that directly relates to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1(a). Applicant provided documentation addressing the factors outlined in 22 Tex. Admin. 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 Tex. Occ. Code §1101.354(2).

**PREM Management LLC (Round Rock); License #9000651** Agreed 1 year probationary broker license issued, effective July 19, 2011; Agreed administrative penalty of \$1,000, effective July 19, 2011 knowingly operating a prior corporation unlicensed, in violation of Tex. Occ. Code §1101.355.

**Andrew & Holly Middlebrook, LLC (Nacogdoches); License #9000638** Agreed 1 year probationary broker license issued, effective July 12, 2011; Agreed administrative penalty of \$1,000, effective July 12, 2011 engaged in unlicensed real estate brokerage activities through its owner, a duly licensed real estate broker, and in so doing demonstrated a lack of good judgment and trustworthiness. Applicant presented sufficient other evidence of honesty, trustworthiness and integrity that satisfied the Commission as required under Tex. Occ. Code §1101.354(2) and the issuance of a probationary license was appropriate.

**Laubenstein, Jason Joseph (Conroe); License #614292** Agreed 2 year probationary salesperson license issued, effective July 12, 2011 Commission of an offense that directly relates to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1(a). Applicant provided documentation addressing the factors outlined in 22 Tex. Admin. 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 Tex. Occ. Code §1101.354(2).

**Jackson, Deanna Lynn (League City); License #614211** Agreed 2 year probationary salesperson license issued, effective July 1, 2011 Commission of an offense that directly relates to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1(a). Applicant provided documentation addressing the factors outlined in 22 Tex. Admin. 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 Tex. Occ. Code §1101.354(2).

# TALCB Bulletin



TALCB was created by an act of the Texas Legislature in 1991 to license, certify and regulate real estate appraisers in Texas under state and federal laws.

**Inside this issue: From the Chairman (Page 1) TALCB Rule Actions (Page 2)**

## *From the TALCB Chairman...*



Luis De La Garza, Jr.

At our August 19<sup>th</sup> meeting, the Board members had quite an agenda to digest, and the members rose to the challenge with targeted questions and insightful suggestions.

Implementing the changes resulting from HB 2375 and HB 1146 required serious consideration of significant new and

amended rules. Staff did a very thorough job in presenting the choices in clear and concise language.

The Working Groups that we appointed to assist with gathering information and researching options have also done a great job in making detailed recommendations to the Board. This serves two vital purposes – first, it allows more input into public policy from a broader set of experienced practitioners, and it assists the Board by offering fully developed recommendations that the Board can have confidence are backed up by extensive research and analysis. Our sincere appreciation goes out to these exceptional volunteers. Their service is extremely valuable to this process.

Another important element of making public policy

is the participation of a wide group of license holders who take the time to read the proposed rules and offer comments on their impact to the public at large and to the industry we regulate. So I invite you to do your part. Go to the agency's website at [www.talcb.texas.gov](http://www.talcb.texas.gov), select the "Act & Rules" tab and then click on the link to see all of the proposed rules. We value your feedback and welcome your input – this is an important part of the public policy process.

The agency, including TALCB, gained "self-directed, semi-independent" status under SB 1000. Beginning September 1<sup>st</sup>, we will see significant accounting and reporting changes to align with the requirements of this law. In the short run, we can expect a modest increase of \$5 per year in application and renewal fees to fund the required contribution to general revenue required by SDSI status. We will also see fee adjustments, including some reductions, to align charges with demand on staff workload. In the long run, the cost reductions from realized efficiencies will lead to additional fee reductions. Be assured that the Board will continue to carefully monitor the related fees and expenses.

As summer rolls on, be safe, find a way to stay cool, and hope for rain. Labor Day is just around the corner, so take the day off if you can. Celebrate work by not working!

**PROPOSED RULES WILL BE CONSIDERED  
AT THE OCTOBER 12, 2011 MEETING  
OF TALCB FOR ADOPTION**

**22 TAC §153.1. Definitions**

The proposed amendments to Section 153.1 would:

- modify the definition of “evaluation” to clarify that appraisal involves opinions, rather than estimates, of value
- clarify that appraisal involves opinions, rather than estimates, of value
- modify the definition of “provisional license” to delete references to the statute regarding issuance of a provisional license, as House Bill 2375 repealed that license category
- add the definition of “USPAP” to reference the Uniform Standards of Professional Appraisal Practice

**22 TAC §153.5. Fees**

The proposed amendments to Section 153.5 would:

- increase most application and renewal fees by \$10 per two-year licensure period. The trainee application and renewal fees, which were previously for a one-year approval, are proposed to be reduced on an annualized basis and restated as two-year fees (trainee approvals are proposed to be changed from one year to two years in the proposed amendment to §153.10)
- reduce from one year to six months the period of time during which a person may renew an expired license by paying a fee of two times the timely renewal fee and would amend a reference to the state treasury to the Texas Treasury Safekeeping Trust Company in accordance with fiscal changes due to the passage of Senate Bill 1000

**22 TAC §153.10. Issuance of Certification,  
License, or Trainee Approval**

The proposed amendments to Section 153.10 would change the license period for a trainee approval from one year to two.

**22 TAC §153.11. Licensing and Certification  
for Persons with Criminal Histories**

The proposed amendments Section 153.11 would:

- implement the provision of House Bill 2375 that prohibits an applicant who has failed the examination three times from retaking it until he or she has completed additional education as required by the Board
- require an applicant who failed by one to five points to take 15 hours of additional education, an applicant who failed by six to ten pointed to take 30 hours, etc., with a maximum of 60 hours of additional education

**22 TAC §153.13. Educational Requirements.**

The proposed amendments to Section 153.13 would mirror previous amendments to §153.18, Appraiser Continuing Education (ACE), to extend clarifications regarding the duration of course approval and the process for revoking the approval of courses, to pre-licensure courses.

**22 TAC §153.16. Provisional License**

The proposed amendments to Section 153.16 would implement House Bill 2375's repeal of the provisional license category, deleting references to the issuance of such a license (approximately 20 provisional licenses that were issued prior to House Bill 2375's May 27, 2011 effective date remain valid until their expiration)

**22 TAC §153.20. Guidelines for Revocation,  
Suspension, or Denial of Licensure or  
Certification**

The proposed amendments Section 153.20 would implement provisions of House Bill 2375 that authorize the Board to issue probationary

## Rule Actions Continued ...

licenses and certifications, subject to reasonable terms and conditions as established by the Board

### **22 TAC §153.2.Appraiser Trainees and Sponsors**

The proposed amendments to Section 153.21 would change the trainee approval period from one year to two years and clarify that a trainee may be placed on inactive status

### **22 TAC §153.23. Inactive Certificate or License**

The proposed amendments to Section 153.23 would specifically authorize inactive status for trainees

### **22 TAC §153.26. Certification and Licensure by Reciprocity**

The proposed new amendment to Section 153.26 would clarify that the form on which an appraiser who is the victim of identity theft is to report the issue to the Board is the appraiser complaint form

### **22 TAC §153.27. Certification and Licensure by Reciprocity**

The proposed amendments to Section 153.27 would:

- conform the rules regarding issuance of a license or certification by reciprocity to changes made in House Bill 2375 as required by the federal Dodd-Frank Wall

Street Reform and Consumer Protection Act

- extend reciprocity, subject to the usual background check requirements, to licensed and certified appraisers from any state whose appraiser program has not been disapproved by the Appraisal Subcommittee

### **22 TAC §157.1Definitions**

The proposed amendments to Section 157.1 would clarify that:

- the definitions in 22 TAC Section 153.1 would apply to action against an appraiser
- the definitions in 22 TAC Section 159.1 (proposed elsewhere in this issue) would apply to action against an appraisal management company

### **22 TAC §157.7. Denial of a License [or Issuance of an Adverse Criminal History Evaluation Letter]**

The proposed amendments to Section 157.7 would clarify that a person requesting a criminal history evaluation letter does not have a right to appeal the determination (until and unless the person actually files an application) and further extends the provisions of the section to appraisal management companies

### ***Important Dates to Remember***

TALCB Board Meeting—October 12

TALCB Board Meeting—December 9

# Inspector Insight



***Inside this issue: From the Chairman (Page 1) CE Credit Opportunity (Page 2) New Course Required for Renewal (Page 3)***

## From the Chairman....

The Inspector Committee met on June 24<sup>th</sup> with a full agenda of items to consider. Then the Commission met on August 1<sup>st</sup> and adopted a major recommendation from the Committee – the Penalty Matrix. After much serious discussion, it was determined that this set of “voluntary handcuffs” on the Commission staff was a good idea for inspectors.

Beginning September 1st, inspector education providers will have revised their course offerings to meet the newly designated hours per topic requirements for pre-licensure education. Also on that day, inspectors seeking to renew a license will need to have taken a new 6 hour course in Texas Standards of Practice/Legal/Ethics Update in order to renew a license. These six hours will be counted as part of the 32 hours of continuing education currently required for each renewal. Both of these initiatives are very positive changes for our industry. The Committee’s education subcommittee has published the curriculum guidance for the educators to ensure key items are included in this MCE.

The Commission was given “self-directed, semi-independent” status by passage of SB 1000. Based on this, the Committee will consider recommending a small increase in license renewal fees of \$5.00 per year to assist with the “annual contribution to general revenue” required by this new status. Other fees may also be adjusted to better reflect actual effort connected to the request.

The committee has also begun the process of looking at updating some of the Standards of Practice, especially those that have generated the most requests for clarification when applied. Please watch the agency website and Texas Register for opportunities to review our proposed drafts and offer your input into this important work.

The Committee will be meeting next on September 23<sup>rd</sup> where many of these topics will be discussed on the agenda. We continue to seek to improve our profession and welcome your comments on our efforts. Help us to shape the public policy that directly affects your chosen profession. Enjoy the Labor day holiday and be careful out there.

### ***Important Dates to Remember***

Commentary Subcommittee—September 7

Inspector Committee Meeting— September 23

# Quick Hits From TREC

## **Inspectors approved as instructors can receive CE credit for leading groups in inspection courses in the field.**

Even if you are not the primary instructor for a course, you may qualify for continuing education credit for teaching hands-on segments of on-site inspection courses. For instance, if a classroom or seminar course of 20 students has a field component in which groups of five would be better able to see and learn about specific components, three assistants can each take five students, enhancing the learning experience for the students – and the assistants can receive credit themselves (as long as they are approved by TREC as instructors). If you are interested in this opportunity but are not currently a TREC-approved instructor, please refer to the Education page of the agency website at <http://www.trec.state.tx.us/education/main-instructors.asp>.

## **New Inspector Standards of Practice/Legal/Ethics Update Course Required for Renewal**

Beginning September 1, 2011, all inspectors will need to take a 6-hour Standards of Practice/Legal/Ethics Update course in order to renew a license. Adopted in November 2010 at the recommendation of the Inspector Committee, this requirement will ensure that inspectors keep current on the latest developments in the Standards of Practice and legal/ethical requirements that apply to inspectors. The 6-hour course will be counted toward the 32 hours of continuing education required for all inspector renewals.



## **Been to the TREC website recently?**

There are many great tools on the Texas Real Estate Commission Website to help inspectors!

Looking for education requirements? Tools for renewing your license? Standards of practice?

Other inspectors in your area?

All of this is available at your fingertips at

[www.trec.texas.gov](http://www.trec.texas.gov)!