

79th Legislature 2005 Legislative Report

SB 810 - Revises Occupations Code Chapters 1101 and 1102 as follows:

- Establishes a fee for attendance at an instructor training program for instructors who wish to teach the TREC required legal and ethics continuing education courses.
- Clarifies that the four-year complaint limitation period also applies to real estate inspectors (persons licensed under Occ. Code Chap. 1102).
- Provides for the issuance of a provisional moral character determination under §1101.353.
- Revises the salesperson education requirements to require 14 semester hours (210 classroom hours) prior to filing an application; revises the salesperson annual education requirements to require 4 additional semester hours (60 classroom hours) for the first renewal; and repeals the salesperson annual education requirements for the subsequent two years; the net requirement of 18 semester hours remains the same.
- Requires the commission to automatically approve core courses and State Bar of Texas CLE courses as elective credit courses to satisfy the nine hours of nonlegal MCE required by §1101.455.
- Requires a broker who represents a party or who lists real property under an exclusive agreement to inform the party of material information related to the transaction, including the receipt of an offer by the broker; to answer the party's questions and to present any offer to or from the party; prohibits a broker who represents a party from telling another broker to negotiate directly with the broker's client; further provides that, for purposes of §1101.157, a license holder who has additional authority to bind a party under a power of attorney or a property management agreement is considered a party to the lease or sale; an inquiry to an employee of a builder or developer about contract terms or forms does not violate §1101.652(b)(22) if the person does not have authority to bind the employer to the contract; the delivery of an offer to a party does not violate §1101.652(b)(22) if the party's broker consents to the delivery and a copy of the offer is sent to the party's broker; provides an exception to the requirement of sending a copy of the offer to a party's broker if the party is a governmental agency using a sealed bid process that does not allow a copy to be sent to the broker.
- Requires that a broker who agrees to represent both a buyer and a seller must agree to act as an intermediary.
- Provides TREC with enforcement authority over a licensee who engages in misrepresentation, dishonesty or fraud when selling or buying real property in the name of the spouse or a first degree relative of the licensee.
- Requires a licensee to notify the commission within 30 days of the date of a final conviction of a felony or a criminal offense involving fraud.
- Modifies the recovery fund provisions under Subchapter M to clarify that a person is not eligible for a license under Chapter 1101 until the person has repaid the full amount paid on behalf of the person, whether that person's license was revoked or expired.
- Provides for the licensing and renewal of professional inspectors under a corporate or LLC entity.
- Increases continuing education requirements to 16 hours for apprentice and real estate inspectors.
- Effective date—September 1, 2005.

HB 1236 - Provides an exception for licensing under the Real Estate License Act, Occupations Code, Chapter 1101 for persons engaging in foreclosure sales.

- Effective date—May 17, 2005.

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HB 1045 - Updates the Texas Timeshare Act, Property Code, Chapter 221 as follows¹:

- Adds definitions and modifies others to reflect current products in the timeshare industry, including both deeded and non-deeded timeshare interests as well as single-and multi-site timeshare plans offering either specific interests or non-specific interests.
- Permits a developer to conduct presales prior to completion of registration provided the developer obtains TREC's permission, the application is administratively complete, and the developer otherwise complies with specific statutory requirements.
- Establishes an abbreviated registration process, at the commission's discretion, for out-of-state developers who are appropriately registered in another U.S. jurisdiction and provide certain documentation to TREC.
- Clarifies when amendments to a timeshare plan registration must be filed.
- Expands TREC's powers to conduct hearings, initiate disciplinary actions and assess administrative penalties.
- Provides for renewals of registrations under the Act.
- Permits TREC to request copies of a developer's advertising and requires any advertisement containing a "promotion" to comply with the Contest and Giveaway Act.
- Revises the content of the timeshare disclosure statement that a developer must provide to a purchaser prior to the sale of a timeshare interest to provide additional disclosures and documentation.
- Clarifies required purchase contract provisions, including the purchaser's rescission period, processing of purchaser refunds, and disclosure of the rescission period in the purchase contract.
- Modifies the escrow and financial assurance provisions to better protect the consumer during the rescission period and when construction of the timeshare unit is not finished at the time of purchase.
- Adds a violation under the Texas Timeshare Act and the Deceptive Practices Act for a developer to exceed a one-to-one purchaser-to-accommodation ratio for a timeshare plan during a 12-month period.
- Expands the information available to timeshare purchasers and owners regarding annual expenses of the association, and requires an independent annual audit of the timeshare's financial statements.
- Clarifies how managing entities that manage more than one timeshare plan are to operate.
- Adds a requirement that the developer of managing entity must keep a copy of each purchase contract in its records.
- Effective date—January 15, 2006.