



# Texas Real Estate Commission Annual Report for Fiscal Year 2005

## *Statutory Changes*

As part of its 79th Regular Session in 2005, the Texas Legislature made a number of revisions to the Real Estate License Act (now chapters 1101 and 1102 of the Texas Occupations Code). Perhaps the one change most affecting real estate licensees was the clarification of a broker's duties to his or her client when providing representation as an agent. Section 11101.557 provides that a broker who represents a party in a real estate transaction is that party's agent and must inform the client of any material information related to a transaction, answer the party's questions and present any offers to or from the party, and may not instruct another broker to negotiate directly with his or her client. These provisions are referred to as establishing "minimum broker services" when a broker agrees to represent a client in an exclusive listing agreement or as a buyer's representative.

Revisions to the Real Estate License Act modified the educational process for new salesperson candidates. It stated that an applicant for a salesperson license must complete 150 hours of core real estate course work prior to taking the real estate license examination and complete the remaining 60 hours of core real estate courses during the first year of licensure. This will move all new licensees into the mandatory continuing education cycle after the first year as a salesperson.

A major rewrite of the Texas Timeshare Act was achieved during the 79th Regular Session and signed into law by Governor Perry. The provisions take into consideration new forms of timeshares, club memberships, and non-equity destination clubs which have entered the market since the original Act was adopted twenty years ago.

Another law established a new arbitration process for disputes between a property owner and an appraisal review board as to the value of real estate. When such a disagreement cannot be solved through discussion, a property owner may file a request with the Office of the Comptroller for binding arbitration. An arbitrator will be chosen to make a determination as to the appropriate appraised value of the property. Only brokers, salespersons, and appraisers who have completed a 30 hour arbitration course and filed with the Comptroller's office can serve as an arbitrator.

## *More Licensees*

Fiscal Year 05 closed on August 31, 2005 with a total of 137,563 licensed real estate brokers and salespersons, 4,037 licensed inspectors, and 985 easement or right-of-way registrants. There has been an increase in real estate licensees consistently every month over the past five years. Moreover, there is every indication that the trend will continue into the immediate future as more and more Texans seek to obtain a real estate license and a high percentage of licensees decide to renew.

This continuing influx of licensees can be seen in the following "pipeline" from transcript evaluation (where one finds out how many classes must be completed before filing an application) to original application (where one obtains approval to take a real estate examination) and on to individuals examined (the number who take an examination at a testing center) ending up with new licenses issued. At each of these stages, the increase over the past five years has been substantial, resulting in an overall 34.3% increase in licensed salespersons.

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**Wayne Thorburn**  
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**Growth in Real Estate Licensees over the past five years**

	<i>FY01</i>	<i>FY02</i>	<i>FY03</i>	<i>FY04</i>	<i>FY05</i>	<i>5 Year Change</i>
<b>Transcript Evaluations</b>	16,897	20,378	22,346	27,190	31,421	+86.0%
<b>Original Applications</b>	11,941	16,668	17,298	18,226	21,556	+80.5
<b>Individuals Examined</b>	11,768	16,534	15,482	19,369	23,440	+99.2
<b>Licensed Salespersons</b>	72,318	78,086	82,296	88,421	97,126	+34.3
<b>Licensed Brokers</b>	39,673	39,659	39,366	39,691	40,437	+1.9
<b>Licensed Inspectors</b>	2,196	2,399	2,599	3,077	4,037	+83.8

**Fiscal Year 05  
Applicant Examination  
Pass Rate**

Broker	93.9%
Salesperson	84.7
Professional Inspector	61.7

While more individuals are attempting to obtain real estate licensure, the pass rate on the salesperson examination has increased. The broker pass rate increased from 91.4% in FY03 to 93.9% in FY05 while the salesperson pass rate went from 77.6% two years ago to a pass rate of 84.7% in FY05. This is a good sign for continuing a high level of service and competency among real estate professionals in Texas. The pass rate for professional inspector candidates has also increased from only 45.0% in FY03 to 61.7% last year. Inspector candidates are limited to three attempts in a six month period while there is no limit on salesperson and broker candidates.

License renewal rates remained roughly the same as in previous years with approximately nine of every ten brokers choosing to retain their license. Nearly as high a percentage of experienced salespersons (those with two-year licenses) renewed their licenses in FY05 while more than three-fourths of newer salespersons (those still under Salesperson Annual Education) decided to keep their real estate license. Given the number of possible reasons why an individual might not renew, these percentages are quite high and indicate a desire to retain licensure whether or not one is actively involved in the profession. In fact, approximately 20% of all real estate licenses (28,145) are "inactive," held by those who wish to retain a license for possible future use.

**FY05 License Renewal Rates**

Broker Timely Renewal	89.8%
Salesperson 2 year License Renewal	82.9
Salesperson 1 year License Renewal	76.0

**Online Services**

The Texas Real Estate Commission has long been dedicated to providing as many services as possible on the Internet to increase the convenience and ease of use by licensees and the public. The Commission's web site ([www.trec.state.tx.us](http://www.trec.state.tx.us)) has long been recognized as one of the best among real estate licensing entities and among State of Texas agencies. From the wealth of forms and materials available to the "licensee lookup" function which includes all education records, to the online distribution of the TRECAdvisor newsletter, TREC's web page provides a quick and handy reference to all aspects of real estate regulation. In 2005, TREC received the outstanding web site award from the international Association of Real Estate License Law Officials (ARELLO), the second time it has been the recipient of this honor.

**FY05 Texas Online Transactions**

License Applications	68.1%
Broker License Renewals	28.7
Salesperson Renewals	31.9

Since the year 2000, the Commission has provided a means by which individuals can renew their licenses online. Beginning first with salesperson renewals, this service now extends to virtually all license types. Additionally, salesperson applications can be made over the Internet. In Fiscal Year 2005, thousands of transactions were conducted online by individuals seeking to apply or renew a license with the Texas Real Estate Commission. Moreover, literally millions of Commission web pages were viewed by licensees and the public. Over one hundred thousand email addresses are now maintained on the TREC email notification system. Truly, the Internet has changed the means by which this state agency can communicate with the public - both in providing information and

in receiving requests and transactions.

Currently three in ten license renewals are made over the Internet by use of a credit card while

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nearly two-thirds of all license applications come via the Internet and the TexasOnline system. As more transactions become available and more individuals become familiar with the process, we anticipate that these percentages will increase substantially - providing additional convenience to the public while reducing processing time and effort by the Commission staff.

**Related Programs**

In addition to real estate and inspector licensing and regulation, the Texas Real Estate Commission has responsibility for a number of other programs. Easement or right-of-way agents who are not employed directly by a corporation for whom they provide services must register with TREC and pay an annual license fee. Companies desiring to sell homeowner warranty policies in Texas must be registered with TREC under the provisions of the Residential Service Company Act.

Any developer who wishes to sell timeshare interests in the State of Texas, regardless of the location of the specific timeshare property, must meet stringent registration requirements and be registered with the Commission. These may range from one-week packages at a specific resort to club membership which can be used at any of a number of locations to fractional ownership providing six to ten weeks occupancy in a townhouse or resort. Working with various industry representatives the Texas Real Estate Commission developed amendments to modify the Texas Timeshare Act and the changes were enacted by the 79th Regular Session of the Texas Legislature.

Three new members were selected to serve on the Texas Broker-Lawyer Committee: Bill Jones of Temple (completing the unexpired term of Rob Orr who was elected to the Texas House of Representatives), Judy Elliott of Amarillo, and Mary J. Steele of Houston. The committee continues its process of reviewing and revising promulgated contract forms and addenda, where appropriate. The Texas Real Estate Inspector Committee selected a new Chairman, John Cahill of Plano, and three new committee members were appointed: Curtis Carr of Beaumont, Phillip Stojanik of Houston, and Russell Strahan of Round Rock.

<i>Other Registrants as of August 31, 2005</i>	
Easement or Right-of-Way Agents	985
Real Estate Instructors	2,346
Pre-Licensure Proprietary Schools	51
Continuing Education Providers	236
Registered Timeshare Properties	271
Residential Service Companies	19

**Real Estate Education**

The Texas Real Estate Commission is responsible for oversight of many aspects of real estate education, including the registration of real estate providers, instructors and courses for both pre-licensure and continuing education. While accredited colleges and universities can provide pre-licensure real estate courses without TREC approval, any proprietary school or association wishing to offer pre-licensure courses must make application and obtain approval from the Commission. All continuing education providers, including accredited colleges and universities, must obtain TREC approval as a provider as well as for each continuing education course they wish to offer. At the end of Fiscal Year 05 there were 51 approved providers of pre-licensure education in Texas and 236 approved continuing education providers.

These totals reflect a sizeable increase in just two years as there were only 42 core education providers and 160 MCE providers at the end of FY03. Periodically, TREC Investigators conduct onsite audits of these education providers to ensure compliance with provisions of the Real Estate License Act (Chapter 1101, Texas Occupations Code).

During this past year the Commission approved two new continuing education courses which will be required of all salespersons and brokers beginning with 2007 license renewals. The new TREC Legal Update and Ethics courses are each three hours in length, must be taught by a certified instructor, and were developed by the Real Estate Center at Texas A&M University. These courses were an outgrowth of the Education Task Force headed by Commissioner Louise Hull. The courses were recognized by receiving the award as the outstanding Continuing Education Courses by ARELLO at its annual meeting in Toronto.

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**FY05 Complaint Matters**

	<b>Opened</b>
Public Complaints	1,909
Administrative Matters	1,710
License Application Investigations	581
Moral Character Determinations	385

**Consumer Services**

The Enforcement Division opened 4,585 complaint matters in FY05, consisting of both consumer concerns and administrative issues such as bad checks, failure to comply with license requirements, or failure to provide required information. Additionally, the Enforcement Division must undertake an investigation when an application or renewal indicates that a criminal violation may have occurred. Sometimes an applicant will seek advice as to whether he or she is likely to meet the standard of honesty, integrity, and trustworthiness required of a licensee before taking the requisite real estate courses and license examination. In these instances, the Enforcement Division is called upon to render a moral character determination providing advice to a potential applicant as to whether or

not it is feasible to pursue a real estate license. The total number of complaints opened has increased from 3,691 in FY03 to 4,585 in FY05, an increase of nearly twenty-five percent in two years.

Among the results from complaint matters taken to completion there were 93 instances of a reprimand or censure, 35 licensees placed on probation, 33 license suspensions, 57 license revocations, and 141 matters resulting in a fine or administrative penalty. While many of these outcomes were the result of a hearing conducted before the agency's Administrative Law Judge, still others were the result of an agreed order between the Enforcement Division and the licensee, similar to a plea bargain in a criminal case.

**Performance Measures**

In the current system of performance based budgeting, all state agencies are required to report on their ability to meet certain performance measures. In FY05, the Commission was able to once again meet or exceed all key performance measures developed by the Legislative Budget Board in conjunction with the Texas Legislature, except the measure requiring that 39% of all licenses be renewed online. The Commission also continued to receive high marks from both its clients (in the Customer Service Survey available to all who interact with TREC) and its staff (in the Survey of Organizational Excellence conducted by the University of Texas). Once again, TREC was pleased to receive recognition for the highest percentage employee participation in the State Employee Charitable Campaign for all agencies in its size group.

**Texas Real Estate Commission  
Fees & Payments Collected  
Fiscal Year 2005**

License Fees Collected for State General Revenue Account	\$7,050,000
License Fees Collected For Real Estate Center, Texas A&M	2,638,935
License Fees Collected for TexasOnline Authority	282,661
Deposits to Real Estate Recovery Trust Account	441,584
Deposits to Real Estate Inspection Recovery Fund	139,758
<b>FEES COLLECTED FOR OTHER ENTITIES</b>	<b>\$10,552,938</b>
License Fees Retained by Texas Real Estate Commission	\$7,176,396
Subscription Fees and Other Payments to TREC	188,506
Other Revenue	81,980
<b>TOTAL REVENUE COLLECTED</b>	<b>\$17,999,820</b>

In the past fiscal year, the Texas Real Estate Commission collected nearly eighteen million dollars in fees and other revenue. Of this amount, less than four million dollars was available for expenditures by the Commission. Although the amount of revenue may vary each year due to the number of individuals who renew or obtain a new license, the agency is appropriated a fixed sum of money by the General Appropriations Act and cannot spend beyond that amount.

**Disposition of Revenue Received Fiscal Year 2005**

<b>Total Revenue Collected</b>	<b>\$17,999,820</b>
-Fees Collected for Other Entities	[10,552,938]
-Payments for Services to Other State Agencies	[987,127]
-Agency Income Returned to State General Revenue	[2,518,178]
<b>FUNDS REMAINING FOR TREC EXPENDITURES</b>	<b>\$3,941,577</b>

While the agency received approximately eighteen million dollars in revenue during FY05, 78% of that sum was directed to other agencies or entities of Texas government. The actual appropriated expenditures per licensee, the amount spent directly by TREC, was \$27.09 per licensee or registrant in FY05.