

## **AGENDA FOR TEXAS REAL ESTATE COMMISSION (TREC) MEETING**

Conference Room 235, TREC Headquarters Office  
1101 Camino La Costa, Austin, Texas

**November 15, 2010, at 10:00 a.m.**

### **CALL TO ORDER**

1. Call to order and pledges of allegiance

### **MINUTES**

2. Approval of minutes of August 9, 2010 Commission meeting
3. Discussion and possible action to excuse commissioner absence(s), if any

### **STAFF AND COMMITTEE REPORTS**

4. Reports by administrator, general counsel, and division directors which may include reports of monthly activities and statistical data for communications, licensing, education, enforcement, information technology, staff services, recovery trust account and fund activity, and updates on new and ongoing agency activity; questions by commissioners to division directors regarding issues raised by the monthly activities reports; discussion of current topics raised by monthly reports; requests by commissioners for additional information or reports from staff; and introduction of new employees
5. Report by Texas Real Estate Inspector Committee

### **PUBLIC COMMENTS**

6. General comments from visitors on non-agenda items

### **RULES FOR POSSIBLE ADOPTION**

7. Discussion and possible action to adopt amendments or take other action on 22 TAC Chapter 535 as follows:
  - a. Subchapter A. General Provisions Relating to the Requirement of Licensure
    - i. Rename Subchapter heading to "Definitions"
    - ii. New §535.1, concerning Definitions
    - iii. Repeal §535.1 concerning License Required
  - b. Subchapter B. Definitions
    - i. Rename Subchapter heading to "General Provisions Relating to the Requirement of Licensure"
    - ii. Amend §535.2, concerning Broker Responsibility
    - iii. Amend §535.3, concerning Compensation to or paid by a Salesperson
    - iv. New §535.4, concerning License Required
    - v. New §535.5, concerning License Not Required

Pursuant to the Americans with Disabilities Act, any requests for reasonable accommodation needed by persons wishing to attend this meeting should be submitted to Loretta DeHay at 512-465-3900.

- vi. Repeal §535.12, concerning General
- vii. Repeal §535.13, concerning Dispositions of Real Estate
- viii. Repeal §535.15, concerning Negotiations
- ix. Amend §535.16, concerning Listing.
- x. Amend §535.17, concerning Appraisals
- xi. Repeal §535.19, concerning Locating Property
- xii. Amend §535.20, concerning Procuring Prospects.
- xiii. Repeal §535.21, concerning Unimproved Lot Sales; Listing Publications
- c. Subchapter C. Exemptions to Requirements of Licensure
  - i. Amend §535.31, concerning Attorneys at Law
  - ii. Amend §535.32, concerning Exemptions: Attorneys in Fact
  - iii. Amend §535.34, concerning Salespersons Employed by an Owner of Land and Structures Erected by the Owner
  - iv. Repeal §535.35, concerning Employees Renting and Leasing Employer's Real Estate
- d. Subchapter D. The Commission
  - i. Amend §535.42, concerning Jurisdiction and Authority
- e. Subchapter E. Requirements for Licensure
  - i. New §535.50, concerning Definitions
  - ii. Amend §535.53 concerning Corporations and Limited Liability Companies
  - iii. New §535.54, concerning General Provisions Regarding Education and Experience Requirements for a License
  - iv. New §535.55, concerning Education Requirements for a Salesperson License
  - v. New §535.56, concerning Education and Experience Requirements for a Broker License
  - vi. New §535.57, concerning Examination Requirements for a License
- f. Subchapter F. Education, Experience, Educational Programs, Time Periods and Type of License
  - i. Amend §535.61, concerning Examinations
  - ii. Amend §535.62, concerning Acceptable Courses of Study
  - iii. Repeal §535.63, concerning Education and Experience Requirements for a License
  - iv. New §535.63, concerning Accreditation of Core Education Schools
  - v. Repeal §535.64, concerning Accreditation of Schools and Approval of Courses and Instructors
  - vi. New §535.64, concerning Obtaining approval to offer a course
  - vii. Repeal §535.65, concerning Changes in Ownership or Operation of School; Presentation of Courses; Advertising; and Records
  - viii. New §535.65, concerning Operation of Core Education Schools
  - ix. Repeal §535.66, concerning Payment of Annual Fee; Audits; Investigations and Enforcement Actions
  - x. New §535.66, concerning Core Education Providers; Audits; Investigations; and Enforcement Actions
  - xi. New §535.67, concerning Approval of Instructors
  - xii. New §535.68, concerning Additional Information related to an application
- g. Subchapter G. Mandatory Continuing Education
  - i. Amend §535.71, concerning Mandatory Continuing Education; Approval of Providers, Courses, and Instructors

- ii. Amend §535.72, concerning Mandatory Continuing Education: Presentation of Courses, Advertising and Records
- iii. Amend §535.73, concerning Compliance and Enforcement.
- iv. New §535.74, concerning Additional Information related to an application
- h. Subchapter I. Licenses
  - i. Amend §535.91, concerning Renewal Notices
  - ii. Amend §535.92, concerning Renewal: Time for Filing; Satisfaction of Mandatory Continuing Education Requirements
  - iii. Amend §535.94, concerning Hearing on Application Disapproval: Probationary Licenses
  - iv. New §535.96, concerning Permanent Mailing Address and other Contact Information
- i. Subchapter L. Termination of Salesperson's Association with Sponsoring Broker
  - i. Amend §535.121, concerning Inactive License
  - ii. Amend §535.122, concerning Reactivation of License
  - iii. Amend §535.123, concerning Inactive Broker Status
- j. Subchapter M. Non-residents
  - i. Amend §535.131, concerning Unlawful Conduct; Splitting Fees
  - ii. Amend §535.132, concerning Eligibility of Licensure
- k. Subchapter N. Suspension and Revocation of Licensure
  - i. Amend §535.141, concerning Initiation of Investigation
  - ii. Amend §535.143, concerning Fraudulent Procurement of License
  - iii. Amend §535.144, concerning When Acquiring or Disposing of Own Property.
  - iv. Amend §535.145, concerning False Promise
  - v. Amend §535.146, concerning Failure to Properly Account for Money; Commingling
  - vi. Amend §535.147, concerning Splitting Fee with Unlicensed Person
  - vii. Amend §535.148, concerning Receiving an Undisclosed Commission or Rebate
  - viii. Amend §535.149, concerning Lottery or Deceptive Trade Practice
  - ix. Amend §535.153, concerning Violating an Exclusive Agency
  - x. Repeal §535.154, concerning Misleading Advertising
  - xi. New §535.154, concerning Advertising
  - xii. Amend §535.159, concerning Failing To Properly Deposit Escrow Monies
  - xiii. Amend §535.160, concerning Failing to Properly Disburse Escrow Money
  - xiv. Amend §535.161, concerning Failing to Provide Information
- l. Subchapter O. Hearing on Suspension or Revocation of Licensure
  - i. Amend §535.171, concerning Hearing: Subpoenas and Fees
- m. Subchapter P. Penalty for Unlicensed Activities
  - i. Amend §535.181, concerning Penalty
- n. Subchapter Q. Administrative Penalties
  - i. Amend §535.191, concerning Schedule of Administrative Penalties
- o. Subchapter R. Real Estate Inspectors
  - i. New §535.201, concerning Definitions
  - ii. Amend §535.206, concerning The Texas Real Estate Inspector Committee
  - iii. New §535.209, concerning Examinations
  - iv. Repeal §535.212., concerning Education and Experience Requirements for an Inspector License
  - v. New Amend §535.212, concerning Education and Experience for an Inspector

#### License

- vi. Repeal §535.213, concerning Schools and Courses of Study in Real Estate Inspection
  - vii. New §535.213, concerning Approval of Courses in Real Estate Inspection
  - viii. Repeal §535.214, concerning Examinations
  - ix. New §535.214, concerning Providers of Real Estate Inspection Courses
  - x. Amend §535.215, concerning Inactive Inspector Status
  - xi. Amend §535.216, concerning Renewal of License or Registration.
  - xii. New §535.217, concerning Contact Information.
  - xiii. Amend §535.218, concerning Continuing Education
  - xiv. Amend §535.221, concerning Advertisements
  - xv. Amend §535.222, concerning Inspection Reports
  - xvi. Amend §535.226, concerning Sponsorship of Apprentice Inspectors and Real Estate Inspectors
- p. Subchapter S. Residential Rental Locators
    - i. Amend §535.300, concerning Advertising by Residential Rental Locators.
8. Discussion and possible action to adopt amendments to 22 TAC Chapter 537 as follows:
- a. Amend §537.20 concerning Standard Contract Form TREC No. 9-8
  - b. Amend §537.28 concerning Standard Contract Form TREC No. 20-9
  - c. Amend §537.30 concerning Standard Contract Form TREC No. 23-10
  - d. Amend §537.31 concerning Standard Contract Form TREC No. 24-10
  - e. Amend §537.32 concerning Standard Contract Form TREC No. 25-7
  - f. Amend §537.37 concerning Standard Contract Form TREC No. 30-8
  - g. Amend §537.43 concerning Standard Contract Form TREC No. 36-6
  - h. Amend §537.47 concerning Standard Contract Form TREC No. 40-4

#### RULES FOR POSSIBLE PROPOSAL

9. Discussion and possible action to propose amendments to 22 TAC §535.400 concerning Easement or Right-of-Way Agents
10. Discussion and possible action to propose amendments to 22 TAC Chapter 537 as follows:
- a. Amend §537.45 concerning Standard Contract Form TREC No.
  - b. Amend §537.46 concerning Standard Contract Form TREC No. 39-7
11. Discussion and possible action to propose amendments to 22 TAC Chapter 539 regarding Provisions of the Residential Service Company Act as follows:
- a. Amend §539.61 concerning Applications and Licensing
  - b. Amend §539.121 concerning Examinations
  - c. New Subchapter P concerning Complaints and new §539.150 concerning Complaints

#### RULE REVIEW

12. Discussion and possible action to adopt the review of 22 TAC Chapter 535

#### PENDING BUSINESS

13. Discussion and possible action on legislative housekeeping measures

## NEW BUSINESS

14. Discussion and possible action to approve changes to home inspector license application forms and miscellaneous inspector-related forms
15. Discussion and possible action to approve changes to salesperson, broker, and easement and right of way application forms and miscellaneous related forms
16. Discussion and possible action to approve changes to school, provider, course and instructor forms, and miscellaneous education related forms
17. Discussion and possible action to approve Non-Realty Items Addendum
18. Discussion and possible action to approve fiscal year 2011 budget
19. Discussion and possible action to approve real estate recovery trust account and real estate inspector recovery fund investment policies under the Public Funds Investment Act
20. Discussion and possible action regarding Ethics Commission opinion EAO-492 (2010)

## CONTESTED CASES

21. Consideration and possible action regarding Proposal for Decision from State Office of Administrative Hearings in the matter of SOAH Docket NO. 329-10-3251; Texas Real Estate Commission v. Andrew K. Mills

## RECOVERY FUND

22. Recovery fund matters
  - a. Executive session to discuss pending litigation pursuant to Texas Government Code §551.071
  - b. Discussion and possible action to authorize settlement of recovery fund claims

## FUTURE MEETINGS

23. Discussion and possible action to schedule future meetings
24. Adjourn

**The Texas Real Estate Commission may meet with its attorney in executive session on any item listed above as authorized by the Texas Open Meetings Act, Tex. Gov't Code, §551.071.**