

MINUTES  
Texas Real Estate Commission  
September 12, 2005  
Texas Real Estate Commission  
Room 235a, 1101 Camino La Costa  
Austin, Texas

Chairman John Walton called the emergency teleconference meeting of the Texas Real Estate Commission to order at 1:40 p.m., Monday, September 12, 2005. In addition to Chairman Walton, members present were Larry Jokl, Louise Hull, Mary Frances Burleson, James Austin, Paul Jordan, Ramon Cantu, Bill Flores and Elizabeth Leal.

Staff present were: Wayne Thorburn, Administrator; Sabrina Hassumani, Assistant Administrator; Loretta DeHay, General Counsel; Della Lindquist, Director of Enforcement; Beverly Rabenberg, Devon Bijansky, Sharon Harris, Leena Chaphekar and Jannell Senn, staff attorneys.

Mr. Walton moved to agenda item one, discussion and possible action to adopt Emergency Rules concerning Temporary Emergency Real Estate Licenses for salespersons and brokers licensed in Louisiana, Mississippi, and Alabama who are unable to continue to practice or reside in the areas of those states impacted by Hurricane Katrina. The Chairman explained that Mr. Thorburn had been contacted by the Governor's Office concerning this and opened the floor for any motions.

Mr. Jokl asked if the number of counties and the number of licensees was affected was known. Ms. Hassumani stated that TREC has received 10 requests for assistance as of September 12, 2005. TREC would be using FEMA's list of disaster counties as the guide for determining whether an individual would qualify for a temporary emergency license. Mr. Thorburn stated that TREC did not have the number of licensees in the affected counties.

Mr. Cantu asked what would happen to an outstanding contract when the temporary license period expired. Ms. DeHay replied that if the Commission approved the temporary licenses under the sponsorship of a Texas broker, the contracts would be handled by the sponsoring broker. Ms. Burleson commented that the broker could continue to pay the out of state licensee a referral fee after the temporary emergency license expired. Ms. Leal asked why all the temporary emergency licenses had the same expiration date of February 28, 2006. Mr. Thorburn stated that the draft language had been modeled after the Veterinary Medical Examiners Board emergency rules and that was the date they used. Also,

licenses expiring at different dates could be an unneeded burden for staff to keep up with.

Ms. Leal suggested that both salespersons and brokers from the affected states should be under a Texas broker. These people would not be familiar with Texas law and the mandatory promulgated forms. The Texas broker would be responsible for training the temporary emergency license holder. Mr. Walton, Mr. Flores and Mr. Cantu all agreed with Ms. Leal.

After discussion, Ms. Burleson, seconded by Mr. Jokl, moved to adopt the proposed language as follows:

#### **§535.4. Temporary Emergency License**

(a) By the proclamation issued September 1, 2005, by the Governor of the State of Texas, the Texas Real Estate Commission may issue a Temporary Emergency License to individuals who meet the following requirements:

(1) The applicant is currently licensed as a Broker or Salesperson, is in good standing, and has no current or pending disciplinary actions in the states of Louisiana, Mississippi, or Alabama;

(2) The applicant is unable to continue to practice or reside in Louisiana, Mississippi, or Alabama as a result of Hurricane Katrina;

(3) The Commission has not previously disapproved or revoked the applicant's license in Texas; and

(4) The applicant has submitted to the commission in writing a Temporary Emergency License application described in this section.

(b) A Temporary Emergency License Application shall consist of the following items:

(1) Temporary Emergency License Application form;

(2) Verification of current licensure from home jurisdiction;

(3) Verification of current disciplinary status from home jurisdiction; and

(4) For a salesperson license applicant, sponsorship by a Texas real estate broker licensed on a non-emergency basis.

(c) Except as provided in this section, a Temporary Emergency License holder shall be subject to all other rules, laws, and legal requirements to which a holder of a standard license is subject.

(d) A Temporary Emergency License issued under this section shall be valid until February 28, 2006, and may not be renewed.

(e) An applicant that has been issued a Temporary Emergency License may apply for a standard license using the standard license application process.

(f) Temporary Emergency License applications may be accepted for the effective duration of the proclamation by the Governor of the State of Texas.

(g) The fee, education, experience, and examination requirements of Texas Occupations Code Chapter 1101 have been waived for a Temporary Emergency License by proclamation by the Governor of the State of Texas.

Ms. Leal suggested that the date of expiration of the licenses be moved to March 31, 2006 instead of February 28, 2006 as the draft stated. There was discussion concerning the date of expiration. Ms. Burleson, seconded by Mr. Jokl, moved to amend her motion to make the temporary emergency license expiration date March 31, 2006.

Mr. Jokl spoke concerning his memo which suggested requiring that the Texas broker must write the contract for an evacuee licensee working in Texas and the broker's name must be on the contract, because the evacuee licensees are not familiar with Texas law. Mr. Thorburn explained that the rules were being adopted under the Governor's Emergency Declaration which allows agencies to waive certain existing requirements, but does not allow the agencies to impose additional requirements on the licensees.

There was discussion concerning E&O insurance, criminal background checks and what requirements Texas will have for a licensee wanting a temporary emergency license and one who wants a regular Texas license.

Mr. Jokl called the question. Ms. DeHay restated the motion with the amendment.

Ms. DeHay called the roll for the vote: Commissioner Austin, yes; Commissioner Burleson, yes; Commissioner Cantu, yes; Commissioner Flores, yes; Commissioner Hull, yes; Commissioner Jokl, yes; Commissioner Jordan, yes; and Commissioner Leal, yes. The motion was adopted by unanimous vote.

Mr. Walton moved to agenda item two, discussion and possible action to adopt emergency Rules concerning Temporary Emergency Real Estate Inspector Licenses for home inspectors licensed in Louisiana, Mississippi, and Alabama who are unable to continue to practice or reside in the areas of those states impacted by Hurricane Katrina.

Ms. DeHay stated that the Inspector Committee had recommended a fifth requirement under §535.211(b)(5) which requires proof of completion of 8 classroom hours of education related to the Texas Standards of Practice and Rules of the Real Estate Commission. There was discussion concerning the cost of the class.

Ms. Leal, seconded by Ms. Burleson, moved to adopt the proposed language as follows:

**§535.211 Temporary Emergency Real Estate Inspector License.**

(a) By the proclamation issued September 1, 2005, by the Governor of the State of Texas, the Texas Real Estate Commission (the Commission) may issue a Temporary Emergency Real Estate Inspector License to individuals who meet the following requirements:

(1) The applicant is currently licensed as a home inspector, is in good standing, and has no current or pending disciplinary actions in the state of Louisiana, Mississippi, or Alabama;

(2) The applicant is unable to continue to practice or reside in Louisiana, Mississippi, or Alabama as a result of Hurricane Katrina;

(3) The Commission has not previously disapproved or revoked the applicant's inspector license in Texas;

(4) The applicant has submitted to the commission in writing a Temporary Emergency License application described in this section.

(b) A Temporary Emergency License Application shall consist of the following items:

(1) Temporary Emergency License Application form;

(2) Verification of current licensure from home jurisdiction;

(3) Verification of current disciplinary status from home jurisdiction;

(4) Sponsorship by a Texas Professional Inspector; and

(5) Proof of completion of at least 8 classroom hours related to the study of Texas Standards of Practice and Rules of the Real Estate Commission.

(c) Except as provided in this section, a Temporary Emergency Real Estate Inspector License holder shall be subject to all other rules, laws, and legal requirements to which a holder of a standard license is subject.

(d) A Temporary Emergency Real Estate Inspector License issued under this section shall be valid until February 28, 2006, and may not be renewed.

(e) An applicant that has been issued a Temporary Emergency Real Estate Inspector License may apply for a standard apprentice, real estate, or professional inspector license using the standard license application process.

(f) Temporary Emergency Real Estate Inspector License applications may be accepted for the effective duration of the proclamation by the Governor of the State of Texas.

(g) The fee, experience, examination, and other education requirements of Texas Occupations Code Chapter 1102 have been waived for a Temporary Emergency Real Estate Inspector License by proclamation by the Governor of the State of Texas.

There was discussion concerning the pre-license requirement that Texas would be checking to see if evacuee applicants were in good standing in their current state and how notification would be handled.

The Chairman called for a vote. Ms. DeHay called the roll: Commissioner Austin, yes; Commissioner Burleson, yes; Commissioner Cantu, yes; Commissioner Flores, yes; Commissioner Hull, yes; Commissioner Jokl, yes; Commissioner Jordan, yes; and Commissioner Leal, yes. The motion was adopted by unanimous vote.

The meeting was adjourned at 2:01 p.m.

APPROVED this the 17th day of October, A.D. 2005.

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John Walton  
Chairman

ATTEST: \_\_\_\_\_

Wayne Thorburn  
Administrator