



***Texas Real Estate Commission***  
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FOR IMMEDIATE RELEASE

January 6, 2003

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*Chairman*  
*Texas Real Estate Commission*

On November 4, 2002, the Texas Real Estate Commission adopted a [rule](#) to define the minimum level of service that a consumer may expect to receive from a real estate licensee who represents the consumer in a real estate transaction. The rule requires that a licensee must accept and propose offers and counter-offers, answer any questions regarding offers and counter-offers, and assist in developing, communicating and presenting offers and counter-offers for the licensee's client.

Shortly before the rule was to go into effect, an Austin broker sued the Commission on the rule. The Commission had received no negative comments prior to the adoption of the rule. It is now subject to a temporary restraining order pending the outcome of a hearing later this month. The Commission proposed and adopted the rule to protect consumer interests by ensuring that consumers were fully informed as to the level of service they could expect from a licensed broker serving as their agent in a real estate transaction. There was never any intent to put discount brokers out of business, to prohibit fee for service arrangements, to set commission rates or fees, or to deny consumers the ability to choose what kind of service they want from a licensed broker.

The sale or purchase of real estate is a complex matter often fraught with hidden problems that come to light only after the property is listed for sale. While a small percentage of consumers may wish to handle the transaction on their own, the vast majority require guidance and expertise through the entire process. Since a real estate agent has a fiduciary duty to the licensee's client to act in the best interests of the client, the agent must be ready to provide expertise and guidance to the client as the need arises.

Consumer protection is the primary reason why the State of Texas requires persons who engage in real estate brokerage activity to obtain a license to do business. Applicants for salesperson and broker licenses must obtain an education in real estate and pass an examination as a prerequisite to licensing. Furthermore, licensees are subject to mandatory continuing education to maintain a license. Only by constantly reviewing its rules and responding to concerns from the regulated industry and the general public can the Commission continue to fulfill its mission of consumer protection.

The Commission believes that it acted within its established statutory authority in adopting the rule and will continue to act in the best interests of the consumer. However, given the litigation and other issues raised about the rule, the Commission will not attempt to enforce the rule as written. The Commission will await the final outcome of the litigation before taking any other action on the rule.