



**PROPOSED RULE ACTION FROM  
AUGUST 13, 2012 MEETING OF THE COMMISSION  
Chapter 535 General Provisions  
Subchapter N. Suspension and Revocation of Licensure.  
§535.145. False Promise.**

The Texas Real Estate Commission (TREC) proposes an amendment to §535.145 regarding False Promise. The amendment corrects a typographical error in the reference to the Act.

Loretta R. DeHay, General Counsel, has determined that for the first five-year period the proposed amendments are effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no anticipated significant impact on small businesses, micro-businesses or local or state employment as a result of implementing the sections. There is no significant anticipated economic cost to persons who are required to comply with the proposed amendment.

Ms. DeHay also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be consistency between the Act and Rules.

Comments on the proposal may be submitted to Loretta R. DeHay, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its licensees to fulfill the purposes of chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

The statute affected by this proposal is Texas Occupations Code, Chapter 1101. No other statute, code or article is affected by the proposed amendments.

**§535.145. False Promise.** For purposes of [§1101.652\(b\)\(5\)](#) [~~§1101.652(a)(5)~~] of the Act "false promise" includes both oral and written promises. The fact that a written contract between the parties to a real estate transaction does not recite a promise made by a real estate licensee to one of the parties or that a person did not detrimentally rely on the false promise will not prevent the commission from determining that a false promise was made. In determining whether this section has been violated, neither a written contractual provision disclaiming oral representations nor the Texas Rules of Evidence Rule 1004, the parol evidence rule, shall prevent the commission from considering oral promises made by a licensee.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August 20, 2012.

TRD No. 201204418  
Loretta R. DeHay  
General Counsel  
Texas Real Estate Commission  
Earliest possible date of adoption: November 5,  
2012