



TREC Advisor

The agency exists to safeguard the public interest and protect consumers of real estate services. In accord with state and federal laws the agency oversees real estate brokerage, appraisal, inspection, home warranty, right-of-way services and timeshare interest providers. Through education, licensing and regulation, the agency ensures the availability of qualified and ethical service providers, thereby facilitating economic growth and opportunity across Texas.

INSIDE THIS ISSUE: From the Director (page 1) TREC Housekeeping Bill Overview (page 2) Why Do I Have to Put My Broker's Name on My Advertisement? (page 3) What's In A Nickname? (page 3) Proposed Rules for August Commission Meeting (page 4) Employee Updates (page 5)

From the Director...

Broker license renewal fees will be reduced by \$300 due to passage of HB 7 to be effective 1 Sep 15. How's that for a headline? Due to the very hard work of a dedicated group from across our profession, especially the legislative team at TAR, the "occupation tax" - also called a "professional fee" - was repealed 24 years after it was implemented as a "temporary" revenue measure. With the cooperation of Senator Kevin Eltife and Representative John Kuempel, the funding for Texas' outstanding Real Estate Center at Texas A&M was preserved in SB 699 and the net result is a \$300 reduction in fees collected at broker license renewal. What a great accomplishment! Our gratitude goes out to all who played a part in this tremendous effort.

SB 699 also contains some other improvements you should be aware of. Starting on January 1, 2016, the Legal Update course that is a part of every license holder's continuing education (CE) requirement to renew a real estate license will be 8 hours and contain much more information on the content and use of promulgated contracts. The statutory notices that license holders are required to provide to clients and other consumers - the complaint filing process, the potential to access the recovery fund, and the "Information About Brokerage Services" (IABS) - will each be simplified and made more understandable. The Commission will also adopt new rules on when and how the notices will be provided to consumers.

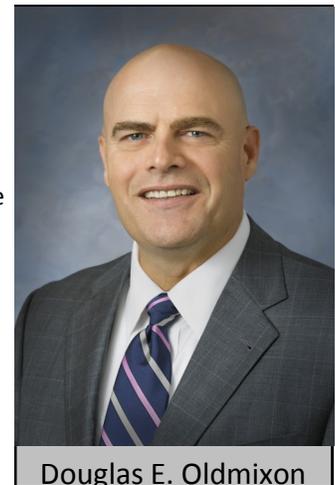
Many other clarifications were included in the bill and, with the timely assistance of many of our license holders, we will be implementing those via rule amendments over the next few months. Thanks to all who participate in the truly collaborative process of shaping thoughtful recommendations for sound policy improvements. We have always invited a very high level of stakeholder input as we work to carry out our mission to ensure competent and ethical real estate service providers for

Texas' consumers.

Due to other requirements enacted by the legislature, some of the TREC promulgated contract forms will be updated to become effective September 1, 2015. We realize that is a short timeframe, but the legislature makes most of the laws it passes to be effective at the beginning of the next fiscal year, and the Texas fiscal year starts September 1st! Watch for the news releases in your email that will explain the contract changes and steer you to more resources to assist with rapid integration of these forms.

January 1 will also mark commencement of the requirement for instructors of "qualifying" and non-elective CE courses to provide proof of successful completion of a minimum of 8 hours of Instructor Training in Adult Education techniques in the last four years. Holding a current CREI, DREI or CDEI designation will satisfy this requirement. Other courses can be used to satisfy this requirement, if approved by TREC. This standard is critical to recognizing and maintaining the quality of the outstanding instructors who teach our most important professional courses. We appreciate those who commit to this level of expertise.

The next meeting of the Commission will be on Monday August 17th at 10 AM in Room 170 of our HQ. Rules will be proposed to implement much of SB 699 and we will consider our annual internal audit and FY16 budget. We are always happy to see interested license holders make the effort to be there, but you can also watch our live broadcast online at the TREC website www.trec.texas.gov. Aim high!



Douglas E. Oldmixon

TREC Housekeeping Bill Overview

Senate Bill 699 amends Chapter 1101 of the Texas Occupations Code (Texas Real Estate Licensing Act), which regulates the licensing of real estate agents and brokers. The bill clarifies and expands various definitions to ensure TREC has the tools needed to adequately protect Texans, and conforms terminology throughout the Act to current TREC practices. The bill allows TREC Commissioners and staff to make uncompensated presentations to groups of license holders that would be able to qualify for continuing education credit. The bill provides TREC additional flexibility regarding various statutory notices to consumers.

The bill clarifies that a current license term period is 24 months. The bill requires additional education if an applicant fails the examination three times and requires legal and ethics update be taken before renewal of first sales license. It clarifies TREC's ability to set continuing education requirements by rule, subject to a minimum requirement of 15 hours and limits TREC's ability to increase hours by no more than three hours over a license term. It also expands legal

and ethics continuing education courses to include more content on promulgated contracts, and sets reporting restrictions to match the continuing education hours claimed.

The bill adds a two-year waiting period for reapplication after revocation, surrender, or denial of a license after the opportunity for a hearing. The bill allows the agency's investigative complaint files to remain confidential until the investigation is completed. It updates certain procedures regarding a respondent's failure to appear at hearing and authorizes cost recovery for the agency should a State Office of Administrative Hearings (SOAH) judge deem it appropriate.

The bill clarifies the process for contributions to, replenishment of, and claims against the recovery fund; clarifies that timely repayment of the fund is necessary to maintain a license; and establishes a connection between a designated broker and brokerage firm regarding claims against the recovery fund.

CONTRACT CHANGES ARE HEADING YOUR WAY!

The Broker-Lawyer Committee is recommending changes to the contract forms based on new statutory requirements and other issues raised by stakeholder this past year. The Commission will consider promulgating these revised forms for use at their August 17, 2015 meeting.

Due to statutory effective dates, the revised forms are mandatory on September 1, 2015. Redline copies of the changes to the forms will be included in the materials for the commission meeting posted on our website 7-10 days before the meeting.

Why Do I Have to Put My Broker's Name on My Advertisement?

Occasionally, a sales agent will ask us –“do I have to put my broker's name on MY advertisement? “It's my business or my business card or my listing and I'm doing all the work.” And, if we say “yes”, they ask “why?”

The Short Answer – It's required

The Longer Answer – the Rules

Commission Rule 535.154(c) requires that an advertisement clearly and conspicuously contain the name of the broker, either a business entity or an individual. The broker's name must be at least half the size of the largest contact information on the sign. The sales agent may not imply that the agent is responsible for the operation of a real estate brokerage business – that's the broker's responsibility, not the sales agent's.

- Sometimes a sales agent forget this rule, either intentionally or by accident, and discipline may result when this happens.

The Why Behind the Answer

TREC, a consumer, or anyone else in the public needs to find the person in charge. Under Texas law, a licensed real estate broker is in charge of real estate brokerage business. When there's a problem, the person in charge needs to know. And when there's a complaint, TREC (or the Courts or lawyers or anyone else) needs to be able

find the person responsible for the activity.

- No broker wants the first notice of a problem to be a letter from TREC (or service of a lawsuit) letting them know that a complaint exists.

The Best Defense

The best defense to a complaint, whether it's a civil lawsuit or a TREC complaint, is that we (TREC or a court) never hear about it. If the complaint can be voluntarily resolved up front, before a lawsuit or TREC complaint, that's often best for all parties. Early on, sometimes even an apology or a heart-to-heart or some other customer service response can be enough. In some situations, a payment or some other arrangement may occur even though liability is unclear.

One way a complaint gets resolved up front is that the consumer or other allegedly aggrieved party speaks with the person in charge. When the broker's name is on the advertisement, it is much easier to find the person in charge.

For further information please see our rules or statute on our website (under [Forms, Laws & Contracts](#)) or the advertising FAQs under the “Complaints, Consumer Info” tab at [“Enforcement Frequently Asked Questions”](#).

What's In A Nickname?

TREC's current advertising rule is not particularly clear on the use of and registration of nicknames. That will be rectified in the near future when the advertising rule is revised.

The Commission's current stance on nicknames is they do not need to be registered with the Commission if they are a common derivative of a name (like Jim for James and Kim for Kimberly). If the nickname is not easily recognized from the name under which the license holder is licensed, then the nickname needs to be registered with the Commission before use in advertising (like Skeeter for William).

License holders can list nicknames on their license application. If they decide to use one after becoming licensed, they can just send TREC an email notifying TREC of the nickname (or married name, etc.)

Rules up for adoption at the August 17, 2015, meeting:

§535.217, Mailing Address and Other Contact Information.

The proposed amendment corrects the rule from 10 days to 30 days to match Section 1102.118(b) in the Texas Occupations Code, which has a 30-day requirement.

§§535.400, Registration of Easement or Right-of-Way Agents and 535.402, Complaints, Disciplinary Action and Appeals.

The proposed amendments correct terminology, renumber for consistency, and provide a timeframe for responding to complaints for easement or right of way agents consistent with other license types.

§539.81, Funded Reserves.

The proposed amendment accommodates cross jurisdictional issues with the Texas Department of

Insurance, who regulate captive insurance companies, while continuing to ensure that the consumer protection afforded by the Residential Service Company Act, as originally passed, is not eroded. A captive insurance company is a fairly new type of admitted insurer that was not contemplated when Section 1303.152 of the Act was originally enacted and has not been previously used in Texas to reinsure funds currently held in the required funded reserve.

§539.150, Complaints.

The proposed amendment clarifies terminology for consistency throughout the rules.

TREC Enforcement Actions

The Texas Real Estate Commission has published enforcement actions. To read the full report and get access to all of the enforcement actions taken by the Commission, please go to the TREC website and click on, "Complaints, and Consumer Info" and then [click "Disciplinary Actions"](#).

IMPORTANT DATES TO REMEMBER

Broker Working Group Meeting— July 27

TREC Commission Meeting—August 17

Check the TREC website regularly for postings of all of our upcoming meetings.

TREC Employee Updates



Jessie Galo

Reception and Communication Services

Yesenia Galo (Jessie), joined TREC from Austin Energy where she worked as a Bilingual Customer Service Representative in the Commercial Department. She has been in the customer service industry for 10 years and is excited to join the Texas Real Estate Commission. Jessie is a go getter and a hard worker, always looking for the next opportunity and is looking to grow within the agency and succeed. Outside of work, her full attention is to her family, her 3 pups, and her friends. She loves being outdoors and I always find any excuse to be near the water tubing down the river or just being alongside the water on a hot day. She's always on the go.



Amanda Worchel

Reception and Communication Services

Amanda Worchel (Mandi) joined TREC after earning her degree from Austin Community College and Texas State University in Public Administration - all while being a single mom. She has worked as an intern for the City of Lakeway, conducting research on several local issues. Mandi worked for Wells Fargo as a teller and in 2015, obtained her Real Estate license. Mandi is recently engaged to her boyfriend of 10 years, and as luck would have it, she was able to gain employment in a promising career path at TREC that incorporates both her knowledge of public administration and real estate.



Emily Kusnerik

Licensing and Education Services

Emily Kusnerik, will be graduating from the University of Houston in August with a Bachelor's degree in political science. She just recently finished an internship working at the state capitol for the House Committee on Licensing and Administrative Procedures. She hopes to begin law school next fall at the University of Houston while continuing to learn and experience as many aspects of Texas politics throughout her career as possible.

We Hope you "Like" Us!



Did you know TREC is on Social Media? We have a [Facebook page](#) and we are on [Twitter](#). Be sure to check us out and "like" us. We post regular updates and love to interact with our license holders!



TALCB Bulletin



TALCB was created by an act of the Texas Legislature in 1991 to license, certify and regulate real estate appraisers in Texas under state and federal laws. In 2011, TALCB's jurisdiction was expanded to register and regulate appraisal management companies.

INSIDE THIS ISSUE: TREC Housekeeping Bill Overview (page 1) From the Director (page 2) All About TACL B (page 3) Proposed Rules For The August Meeting (page 4) TACL B

TALCB Housekeeping Bill Overview

SB 1007, the housekeeping bill for the Texas Appraiser Licensing and Certification Board was finally passed and signed by the Governor. A brief summary and justification is included here.

Various definitions are clarified or expanded to ensure the agency has the tools needed to adequately comply with our federal oversight requirements and to better protect Texans.

Board members and key staff make regular presentations to groups of license holders to provide valuable substantive updates on laws, rules and recent disciplinary trends. Specific authorization is needed to ensure such presentations are eligible for award of continuing education credits.

Board members are currently appointed for two-year terms – similar to many “advisory” committees. To better reflect the independent policy-making status of this Board, the bill extends the terms of the Board members and adds other provisions similar to those of other statewide policy bodies. In addition, the AMC Advisory Committee is expanded from three members to five members to more effectively handle the workload anticipated by federal rulemaking.

The bill clarifies that allegations made against appraisers are not considered “complaints” until verified by investigators. This protects license holders from the effects

of frivolous or retaliatory acts, including loss of work. The statute should more clearly reflect this process distinction.

The bill grants the Board the authority to implement the federal AQB criminal history check requirements for appraisers that become effective January 1, 2017. This provision ensures that the agency is able to properly fulfill its consumer protection role.

The bill contains provisions that allow the agency to keep the complaint investigation files confidential during the investigation process. Once the investigation is completed, those investigation files are subject to disclosure under the Public Information Act. These provisions conform the Board's statute to that of many other licensing agencies in Texas, and allow the Board's staff to concentrate on the investigation of the complaint through its completion, while at the same time protecting license holders from the negative impact of frivolous complaints.

The bill grants the Board the authority to approve appraiser education providers, instructors and courses. This ensures convenient access to high quality of education courses in Texas. In addition, the bill codifies the current Board policy that restricts all administrative penalties to a fund dedicated to developing education opportunities or research that will protect Texans.

From the Commissioner

Good news – the Governor has signed SB 1007 to become effective 1 Jan 16. With the tremendous leadership and assistance of the Foundation Appraiser Coalition of Texas (FACT), TALCB is able to move ahead, making official several areas of practice that we have worked on together for a while.

For example, for the past two years, TALCB has been considering mere allegations of misconduct as not sufficient to arise to the level of a formal “complaint”. Now in SB 1007 the statute has been clarified to reflect this policy position. Also a 4-year statute of limitations was added to ensure the Board is not reviewing complaint regarding old matters where only scant evidence is available to judge the facts. Similarly, nothing in Chapter 1103 required reviewers from out-of-state to be licensed in Texas if not offering an “opinion of value” as part of the review. This has also been clarified. All administrative penalties previously collected in FY 2014-15 were dedicated to use for education related purposes – a restriction now reflected in the statute. The funds were recently used to update the Texas fee survey.

Several changes were made that reflect the Board’s status as policy-making body. Appointments and terms are regularized and the AMC Advisory Committee is expanded to ensure more voices are

heard. Board members and staff are allowed to make certain presentations to appraisers that can qualify for ACE credit. Judges are now permitted to award direct out-of-pocket costs to the Board in the event of a default hearing. In the event future circumstances

warrant it, the Board also gained the discretion to recognize other valuation standards that are essentially equivalent to USPAP. Lastly, to keep up with federal requirements, the Board was given expanded authority to evaluate the criminal history of applicants and appraisers before granting or renewing a license or credential. What form this check takes remains to be determined. We invite your input as we shape this policy.

The next meeting of the Board will be on Friday 14 Aug at 10 AM. The budget for FY 2016 will be considered and adopted. We welcome all interested parties to be in attendance or to monitor the session live via the simulcast link on our website.



Douglas E. Oldmixon

IMPORTANT DATES TO REMEMBER

TALCB AMC Committee Meeting—July 24

Enforcement Committee Meeting—July 24

TALCB Board Meeting—August 14

Check the TALCB website regularly for postings of all of our upcoming meetings.

All About TALCB and You

Why does the Board Exist?

It all started with the Uniform Standards of Professional Appraisal Practice (USPAP). Economic turmoil during the 1980's and the Savings and Loan Crisis in the late 1980's combined to erode public trust in the appraisal profession. Several appraisal organizations recognized the need to create a common set of professional practice standards. An Ad-Hoc committee developed the initial USPAP with the purpose of promoting and preserving public trust and confidence in the appraisal profession.

The financial crisis in the 1980's also led Congress to pass the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) of 1989. This federal law provided national recognition of USPAP as the industry standard by which appraisal work product would be measured. Congress also designated The Appraisal Foundation as the official entity responsible for drafting and periodically updating USPAP and for providing the criteria for becoming a credentialed appraiser. Congress also authorized federal financial institution regulatory agencies to adopt USPAP in their regulations as the standards for appraisals.

Title XI of FIRREA also addresses other important aspects of the appraisal profession, including the regulatory oversight structure for appraisal matters. Title XI of FIRREA requires each state and territory to establish a means to enforce both the criteria for obtaining an appraisal credential (the criteria set by the Appraiser Qualifications Board ("AQB") of The Appraisal Foundation) and the standards of practice (USPAP, which is written by the Appraisal Standards Board ("ASB") of The Appraisal Foundation) for appraisers performing assignments in connection with a federally related transaction. The Appraisal Subcommittee (ASC), a federal government entity created under Title XI, monitors the effectiveness of state licensing and certification programs. Title IX of FIRREA gave rise to the Texas Appraiser Licensing and

Certification Act, Chapter 1103, Texas Occupations Code, and the Texas Appraiser Licensing & Certification Board. The purpose of Chapter 1103 is to conform state law to the requirements of FIRREA.

What is the Board?

The Texas Legislature created the Texas Appraiser Licensing & Certification Board (TALCB) in 1991. TALCB is an independent subdivision of the Texas Real Estate Commission. TALCB's mission is to safeguard consumers in matters of real property appraisal services. To accomplish this mission, the agency provides education and licensing services and enforcement of the state and federal requirements that govern real property appraisals.

TALCB consists of nine members. These include:

- The executive secretary of the Veterans' Land Board or the executive secretary's designee;
- Eight members appointed by the governor with the advice and consent of the senate.

Four members appointed by the governor must be certified or licensed appraisers actively engaged in the practice of appraising real property. The other four are public members who qualify for appointment based on their recognized business ability. TALCB represents diverse geographic areas of the state and a cross-section of disciplines in the field of real estate appraisal. Presently, appointed members of TALCB serve staggered two-year terms with the terms of two appraiser members and two public members expiring January 31 of each year. An appointed member may not serve more than three consecutive two-year terms; however, beginning January 1, 2016, the terms will change to a single, six-year term. TALCB meets each year on a quarterly basis at TALCB headquarters in Austin. At the regular meeting in February, the board elects a presiding officer, assistant presiding officer, and secretary. Beginning January 1, 2016, the Governor will appoint a Board member to serve as presiding officer, and TALCB will

Continued on page 5

Rules to be considered for adoption at the August 14th Board Meeting

PROPOSED RULES

The Board proposed amendments to the following rules at the Board meeting on May 15, 2015. These proposed amendments will be on the agenda for adoption by the Board at the August 14, 2015 meeting.

You may review the full text of the proposed amendments on the [Rules and Laws section](#) of the TALCB website. Written comments on the proposed amendments may be sent to general.counsel@talcb.texas.gov and must be received before 5:00pm on Friday, July 24, 2015 to be included in the materials for the August meeting. After that date, comments must be made in person at the meeting.

22 TAC §153.1. Definitions

The proposed amendments to this rule add a definition of “real estate appraisal experience.”

22 TAC §155.2. Work Relating to Property Tax Protests

The proposed amendments to this rule correct a typographical error to reflect the proper statutory reference.

22 TAC §159.204. Appraisal Management Company Complaint Processing

The proposed amendments to this rule implement a penalty matrix for complaints filed against an appraisal management company.

TALCB Enforcement Actions

The Texas Appraiser Licensing and Certification Board publishes their enforcement actions regularly on the new TALCB website. To read the reports please go to the [TALCB website and click](#) on, public and disciplinary actions.

Continued from page 3

elect an assistant presiding officer and secretary.

The legislature has given TALCB various powers and duties. TALCB may adopt:

- Rules for certifying or licensing appraisers or approving appraiser trainees that are consistent with federal law;
- Rules relating to the education and experience required for certifying or licensing;
- Rules relating to the examination;
- Rules relating to procedures for timely renewal of a certificate, license or trainee approval;
- Rules relating to continuing education requirements for a certified or licensed appraiser or an approved appraiser trainee.

In addition to these license-related functions, TALCB has responsibility for adopting and enforcing rules relating to professional conduct, including rules requiring Texas appraisers to comply with USPAP.

TALCB invites you to get involved by attending a meeting or submitting comments on proposed TALCB rules. TALCB meetings are open to the public and are also streamed live through TALCB's website. We hope to see you at the next TALCB meeting.

We Hope you "Like" Us!



Did you know TALCB is on Social Media? We have a [Facebook page](#) and we are on [Twitter](#). Be sure to check us out and "like" us. We post regular updates and love to interact with our license holders!



Inspector Insight



The Texas Real Estate Inspector Committee is as an advisory committee to the Texas Real Estate Commission on matters pertaining to the licensing and regulation of real estate inspectors. The Committee recommends rules and policies that ensure inspections meet high professional standards and enhance consumer protection.

Inside this Issue: *From the Director* (page 1); *Requirements for Listing Inspectors on a Website* (Page 1)

From the Director

The Inspector advisory committee has been active, but no immediate updates are envisioned until after some subcommittee work is completed and the recommendations have been fully vetted.

The SOP subcommittee met several times over the last couple of months to begin the work of reviewing and updating the SOPs. The Subcommittee has finished its initial high-level review of the rules and noted several non-substantive changes to improve the organization of the SOPs with the intent of making them easier to read and follow. The Subcommittee is continuing to work with both stakeholders and staff to determine other are-

as where the SOPs could be improved and encourages input from inspectors during this long and important process.

The Education subcommittee will be meeting on July 28th via teleconference to discuss amendments to the TREC education rules concerning provider, instructor, and course approval. Finally, the full Inspector Committee will meet on August 7 at 9 AM in Austin. As always, we encourage your attendance and welcome your input.



Douglas E. Oldmixon

Do I Need to List All My Inspectors On My Website?

Is an inspector company required to list all the inspector's names and license numbers that perform inspections on behalf of the company on the company's website?

SHORT ANSWER

No, but if an inspector is listed on the website, the website must include the inspector's license number.

LONGER ANSWER

Under Commission Rule 535.221(d), a website containing advertising by one or more inspectors must include the license number of each licensed person whose name or assumed business name appears on the website. For the purposes of an inspector's or inspection company's own website, it is sufficient for the license number to appear

on a single prominent page of the website, such as the main page or the "About Us" page.

In addition, the website must contain at least one name or assumed business name of a license holder and include their license number. For example, the owner of the inspection company that is licensed would be appropriate in this situation.

IMPORTANT DATES TO REMEMBER

TREIC Education Subcommittee Meeting—July 29

TREIC Committee Meeting— August 7

Check the TREC website regularly for postings of all of our upcoming meetings.