



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 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 in Texas.

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Rebates and Referrals – What’s the difference?

A rebate is part of a license holder’s commission that the license holder gives to a principal in a transaction in which the license holder represents one of the parties. A rebate can be cash or anything of value and there is no limit on the amount of rebate paid to a principal of the transaction. All rebates should be reflected on the HUD-1 settlement statement and any cash rebate to a buyer should be made with the consent of the buyer’s lender. A license holder may not pay a rebate outside of the transaction. Further, if the rebate is being paid to a party the license holder does not represent, the license holder must obtain the consent of the party the license holder represents before making the payment. If a license holder donates a portion of the commission to a church or other non-profit organization, this is a donation and not a rebate. Any advertisement for a rebate must disclose if the payment of a rebate is contingent upon or subject to certain restrictions.

A referral is part of the license holder’s commission that is paid to another person for sending a client to the license holder. If a person wants to be paid for a referral, the person receiving the referral fee must have an active real estate license at the time the referral is made. However, a license holder may give an unlicensed person a gift or gift card worth up to \$50. The card may only be redeemable for merchandise. A gift card from a bank that can be converted into cash is impermissible. If a license holder donates a portion of the commission to a church or other non-profit organization for a referral from an unlicensed person, the person making the referral may not receive anything of value from the organization or from the license holder in return for that referral.

Did you know TREC has FAQ’s?

TREC has a variety of FAQ’s available on our website and we update them regularly. For more information please go to www.trec.texas.gov and click on FAQ’s.

Now that fall has clearly arrived and the holidays are rapidly approaching, we are working to close out 2014 cleanly and planning for the new year. The most important planning note for 2015 is of course the Legislature will be in town. Working to support the professional associations of our license holders, we hope to see an extensive “clean-up” bill advanced to streamline and clarify many of the requirements in our professional licensing law. The time is right to take the next step to make our professional standards work better to serve the interests of our consumer clients.

If approved at the Commission’s November 18th meeting, watch for a \$6 reduction in broker and sales agent license renewal fees planned for January 1, 2015. If this fee reduction is approved, the combination of this and the earlier reduction in 2013 will fully reverse the \$5 per year increase that was requested and approved when the agency achieved SDSI status in 2011. At that time, a commitment was made to reverse that temporary increase as soon as we could afford it. Thanks to you we believe we can.

The Education Standards Advisory Committee (ESAC) will hold at least two stakeholder participation sessions in 2014 and 2015 to ensure that its recommendations to the Commission for any proposed changes in course delivery requirements have taken into account the use of the latest technology and best practices to control costs while maintaining sound educational objectives. ESAC acknowledges that there may be some slightly increased costs, but believes the enhanced effectiveness will clearly be worth it. But no recommended changes will be offered by ESAC until all of the stakeholders have a chance to make their positions clearly understood. We welcome the input of all those who actively participate in and deliver our professional education programs.

The Broker Responsibility Working Group has recommended some adjustments to the demonstrated experience required to qualify for a broker license. These proposals would make it a bit easier for some low volume but high complexity transactions to qualify. These changes have received generally positive feedback. Thanks to those who served on this important work group in 2014. The Commission relies on dedicated volunteers to help us work through the large number of considerations to reach recommendations for good public policy options.



Douglas E. Oldmixon

In September, I reached 5 years serving as the Administrator of the agency. It has been a tremendous privilege to be granted this opportunity to enhance the professional standing of real estate service providers in this great state. I trust you each find many of the improvements the agency has been able to implement to be valuable to your professional practice and good for your business reputation. We still have challenges to address, but we have come a long way on our journey to rebuild the confidence of Texas consumers in the professionalism of our license holders.

The Commission’s next meeting on Tuesday November 18th. If you cannot attend, we invite you to watch the live webcast beginning at 9 AM. As always, there is a link on our website to facilitate your viewing. And thanks for all your assistance in making our important mission an achievement we can all be proud of. Aim high!

IMPORTANT DATES TO REMEMBER

TREC Workshop—November 17

TREC Meeting—November 18 (NOT A MONDAY!)

Check the [TREC website](#) regularly for postings of our upcoming meetings.

Reminders and Tips For Real Estate Education Providers:

DEADLINE FOR REVISED LAW OF AGENCY COURSES

Previously approved Law of Agency courses that have not been revised to meet the new curriculum requirements will not be accepted for qualifying (core) course credit after November 17, 2014 for courses delivered via classroom. February 17, 2015 is the deadline for Law of Agency courses offered by alternative delivery methods.

BROKER RESPONSIBILITY COURSE

The new Broker Responsibility course is available and instructors have been attending the instructor training workshop to become certified. Although the new Broker Responsibility course cannot be offered until after December 31, providers and instructors may prepare by submitting course applications for approval well in advance of this date to ensure that the courses are reviewed and approved in time to be offered. Student manuals are now located on the TREC website. Instructors who attend and pass the training sessions will receive a complimentary copy of an instructor manual. TREC will make the instructor manual available to providers and instructors upon request.

COURSE COMPLETION CERTIFICATES

Help us to make sure that students receive accurate credit after completing a qualifying course. Certificates of completion must include the following information as required by §535.62(j)(2) and 535.65 (9)(C) of the Rules of the Commission: the school name; TREC assigned provider number; statutory course title; course approval number; number of hours credit or education units awarded; start and completion date of the course; date of issuance of the course completion certificate; and the signature of a school official. If the certificate is computer printed, the school logo may be substituted for the signature.

Education providers who offer correspondence courses in association with an accredited college or university must include the name of the school “in association with” the name of the college or university on the course completion certificate. In addition, the provider number of both schools must be included on the certificate. Including this information will prevent the return of a certificate to a student or our need to contact the education provider for a corrected certificate.

INSTRUCTORS

Don't forget that TREC-approved education providers are also required to use approved instructors. Sometimes an instructor will allow their approval to expire or a provider may not check to ensure that a new instructor has been approved. Each approved instructor should be prepared to present the approval letter they receive from our agency as proof that they are approved or certified to teach specific courses or subject areas. In addition, a school should select each instructor on the basis of expertise in the subject area of instruction and ability as an instructor. Course completion documents and rosters are reviewed and credit will not be awarded for courses taught by instructors who are not approved.

ADVERTISING/WEBSITES

When advertising or creating websites, it is important that advertisements meet the guidelines set out in the Rules of the Commission. Education providers must advertise courses for the full clock hours and not represent that the courses can be completed in less time than the amount of credit that will be awarded. If your website does not meet these criteria, it's time for a website overhaul.

ESAC to Recommend Continuation of Correspondence Courses; Working Group Formed

Following comments received on a proposed rule to eliminate the use of correspondence as a delivery method for TREC courses, the Education Standards Advisory Committee (ESAC) will recommend to the Commission to allow correspondences courses to continue as they are under existing rules for the time being. A work group of five ESAC members was formed to meet with approved TREC providers and representatives from colleges and universities to research possible

solutions to concerns over the quality and delivery of distance learning education. The work group will bring any viable solutions back to ESAC for consideration and recommendation to the Commission.

The first meeting of the work group is scheduled for December 2, 2014. The next meeting of the Committee is January 6, 2015.

The Agency TOP Performer...

Tony Slagle

Administration & Management Services



Tony has been a vital part of the agency's quadrennial rule review. He is friendly, hard working and always willing to do what it takes to get the job done. He will have his plate full yet again this coming legislative session. We are lucky to have him! Congratulations Tony, and great job!

Tony has been the government affairs specialist for TREC for the past 2 and half years. In addition to his government affairs duties, Tony acts as liaison for the Board and the Inspector committee, and recently oversaw the agency's quadrennial rule review. Prior to joining TREC, Tony worked for 11 years at the Office of Public Insurance Counsel, a state consumer advocacy agency. He was born and raised in Fort Worth, Texas, but moved to Austin in 1990 to attend St. Edwards University, where he earned a degree in political science. In 1994, he moved to Washington, DC to attend the Catholic University of America where he earned a Master's degree in political philosophy. Tony loves to cook, tries to stay abreast of neighborhood and citywide politics, and supports the local music scene as much as possible. He and his wife Lindsey live in South Austin with their daughters Grace and Bette.



Jennifer Grube

Education & Licensing Services

Jennifer joined TREC in August 2014 as an Education Specialist in the Education & Licensing Services Division. As an education management professional specializing in compliance, Jennifer has over eight years of experience in career and vocational education, including five years as an administrator at Le Cordon Bleu College of Culinary Arts – Austin. Jennifer holds a bachelor's degree from Southern Methodist University and a master's degree in education from Western Governors University. She is a member of Laughing Matters Toastmasters and enjoys spending time with her two pugs, Bosley and Gracie.



Maury James

Reception & Communications Services Division

Maury joined TREC in September 2014 as a customer service representative in the Reception & Communication Services Division. As an avid reader and movie fanatic, Maury keeps herself well informed on the news of the day. She has nearly a decade of customer service experience as well as several in hospitality, most recently at the Hyatt Regency Austin. She looks forward to working with everyone at TREC and to all the exciting opportunities the commission might hold.



Samantha Whitcomb

Reception & Communications Services Division

Samantha joined TREC on October 20, 2014, as a Customer Service Representative in the Reception & Communication Services Division. Samantha has just over 10 years of customer service experience and has recently moved back from Colorado to her native state. She enjoys spending time with her family and being in the great outdoors. She is excited to be a part of the TREC team!

The following amendments or new rules were proposed at the August 18, 2014, meeting of the Commission and are up for adoption at the November 18, 2014, meeting. You can see the full text of these rules on the “Proposed Rules” section of the [TREC Website](#).

Chapter 535 General Provisions

The proposed amendments to Chapter 535 are made following a comprehensive quadrennial rule review of this chapter to better reflect current TREC procedures, to simplify and clarify where needed and to improve overall readability. Redundant or unused provisions were removed and certain rules were restructured in whole or in part.

The proposed amendments capitalize the term “Commission” and replace the term “licensee” with “license holder” throughout the chapter. The terms “promptly” and “reasonable time” were replaced throughout the chapter with the specific timeframe previously set out in the chapter definitions (3 days and 10 days respectively) so that the required timeframe would be immediately clear in each rule. Other substantive changes by subchapter are:

Subchapter A: adds new definitions for terms used throughout the Chapter, and deletes other definitions that are no longer used throughout the Chapter.

Subchapter B: amends §535.2 to require that the broker give notice of the scope of authorized activities to a sponsored salesperson in writing, ties the handling of trust funds to the requirements of revised §535.146; revises §535.4 to hold a person conducting brokerage business from another state through the mail, internet or other medium under the jurisdiction of The Real Estate Licensing Act (Act) if the property is located in Texas and adds §535.21, Mailing Address and other Contact Information that was moved from §535.96.

Subchapter D: adds §535.43, Education Standards Advisory Committee, that was moved from Subchapter G, §535.75 and adds §535.44,

Commission Seal, to clarify that the Commission seal may be used only by the Commission for official agency business.

Subchapter E: adds language related to specific requirements of each real estate license type, including language that was moved from Subchapter I which now houses rules related to renewal only; repeals §535.54 since the provisions of that section were moved to other more appropriate sections within the Chapter; adds a new §535.54 dealing with hearings on license denial and probationary licenses that was moved from Subchapter I; amends §535.56 to revise the experience point credits allowed for application for a broker license based on recommendations from the Broker Responsibility Working Group; and amends §535.57 regarding licensure examinations to put all relevant provisions from the Chapter in one location and adds more specific requirements regarding the administration of licensing examinations.

Subchapter F: The proposed rules regarding pre-licensure education programs are reorganized and updated to better reflect TREC policies and procedures, to more clearly reflect the approval process for real estate and real estate inspector educational programs and to simplify for greater understanding. Most of the proposed rules contain the same requirements as in the current rules. However, based on policy recommendations from the Education Standards Advisory Committee (ESAC) and procedural issues raised by TREC ELS and ITS staff, there are some substantive changes set out below. All of these changes have been reviewed and recommended by ESAC and the Texas Real Estate Inspector Committee (TREIC).

Correspondence Courses will not be allowed as a delivery method for TREC real estate pre-licensure courses after December 31, 2015. (*Note - Following comments received on a proposed rule to eliminate the use of correspondence as a delivery method for TREC courses, the Education Standards Advisory Committee (ESAC) will recommend to the*

Commission to allow correspondences courses to continue as they are under existing rules for the time being). The amendments do not phase out the use of correspondence courses for inspector courses.

Terminology was changed for consistency, including “proprietary school” being changed to the more generic “provider”, “core” being changed to “qualifying” and “classroom delivery” to include live webinars where the instructor and student can see each other via computer or other technology.

Clarifying that approved providers can provide approved real estate and real estate inspection qualifying courses and not have to get a separate approval by license program.

A separate section was developed to deal with accredited colleges and universities, since these are the only entities exempt from approval of core educational programs and courses by statute. TREC does have the statutory authority to determine whether a course offered by an accredited college or university qualifies for credit for a license.

Class rosters for pre-licensure courses still have to be retained by providers but do not have to be delivered to TREC monthly. Certificates of completion issued by the provider for qualifying courses will remain the evidence students submit to receive credit toward a license. Course completion certificates will now have to also include the instructor’s name and TREC identification number and the date of issuance.

Beginning January 1, 2016, instructors of qualifying and non-elective continuing education courses will be required to complete 8 hours of adult education training every 5 years.

Subchapter G: The proposed rules regarding continuing education programs are reorganized and updated to better reflect TREC policies and procedures, to more clearly reflect the approval process for real estate and real estate inspector educational programs and to simplify for greater understanding. Most of the proposed rules contain the same requirements as in the current rules. However, based on policy recommendations from the

Education Standards Advisory Committee (ESAC) and procedural issues raised by TREC ELS and ITS staff, there are some substantive changes set out below. All of these changes have been reviewed and recommended by ESAC and the Texas Real Estate Inspector Committee (TREIC).

Correspondence Courses. See issue and summary as under Subchapter F.

Clarifying that approved CE providers can provide approved CE real estate and real estate inspection courses and not have to get a separate approval by license program.

Class rosters or Alternative Delivery Methods Reporting form will continue to be required to be submitted in a format required by TREC for all CE courses.

The requirement for open enrollment to the general public for all courses was removed to recognize that trade associations market courses to members who pay dues and allow brokerage firms to become providers and get their in house training courses approved for CE credit.

The method of using proctored supervised videos for CE classroom instruction was removed as it did not comport to the methods of delivery ESAC recommended. This does not prohibit the use of videos in a classroom course taught by an approved instructor.

The subjects permitted for related credit hours for a broker’s license were tightened up.

Requirements on the type of courses that qualify for credit for the various license types were not changed but were moved to the appropriate rule for that license type.

Allowing partial credit for a real estate CE course that was not fully attended was removed for consistency since partial credit is not currently allowed for real estate core, inspector core, and inspector CE courses and it is difficult to determine and program for partial credit.

Subchapter I: restructures and clarifies the rules regarding license renewal; moves other provisions not dealing with renewals (§§ 535.94, 535.96 and 535.95) to other more appropriate subchapters; and amends language to stipulate that the fee to defer completion of continuing education for up to an additional 60 days will now be due at the time of the filing of the renewal application.

Subchapter J: revises §535.101 effective January 1, 2015, as part of the FY2015 budget adopted by TREC including restructuring license fees by reducing renewal fees and increasing fees for initial applications and reinstatements; setting out the statutory fee required for the Real Estate Recovery Trust Account.

Subchapter L: restructures the chapter and adds language to more clearly set out when each real estate license type becomes inactive and how to reactive a license on inactive status.

Subchapter R: restructures §535.208 and add provisions related to license renewal for members of the military and military spouses; clarifies in §535.209 that an applicant is not eligible to take the inspector examination until the applicant provides evidence to the Commission that all education and experience requirements have been met; revises §535.210 effective January 1, 2015, as part of the FY2015 budget adopted by the Commission, including restructuring inspector license application fees, slightly reducing the examination fee and significantly reducing the contribution to the Real Estate Inspection Recovery Fund; restructures §§535.213 and .218 for improved readability after removal of certain provisions related to approval of education providers, courses or instructors that were moved to Subchapters F or G.

Subchapter T: adds clarifying language to the requirements for obtaining and renewing an easement or right-of-way agent license.

Chapter 537 Professional Agreements and Standard Contracts

The proposed amendments to Chapter 537 are made following a comprehensive quadrennial rule review of Chapter 537 to better reflect current TREC procedures and to simplify and clarify where needed. Throughout the chapter, the proposed amendments capitalize the term “Commission” and replace the term “licensee” with “license holder.”

The proposed amendments also contain two substantive changes:

§537.11, Use of Standard Contract Forms was revised to prohibit a computer file or program version of the Standard Contract forms to allow an end user to strike through the text of the promulgated form and to clarify that the blanks may be scalable to the text.

The Broker-Lawyer Committee recommended proposal of a revised Addendum for Reservation of Oil, Gas and Other Minerals, which is adopted by reference in §537.51. Standard Contract Form TREC No. 44-1.

Chapter 539 Rules Relating to the Residential Service Company Act

The proposed amendments to Chapter 539 are made following a comprehensive quadrennial rule review of Chapter 539 to better reflect current TREC procedures and to simplify and clarify where needed to improve readability. Section 539.140, Schedule of Administrative Penalties, was also revised to insert statutory provisions that were previously inadvertently omitted. Revised forms for the annual and mid-year reports, which are adopted by reference in §§539.91 and 539.137 respectively, are also being proposed.

Chapter 543 Rules Relating to the Provisions of the Texas Timeshare Act

The proposed amendments to Chapter 543 are made following a comprehensive quadrennial rule review of Chapter 543 to better reflect current TREC procedures and to simplify and clarify where needed to improve readability.

Name and Location	Order	Basis For Order				
<p>Case#: 131080 COCHRANE, ROBERT NICK (license # 413931) Real Estate Broker / Salesperson-I AUSTIN(TRAVIS) Effective Date: 9/18/2014</p> <table border="1" data-bbox="110 457 397 646"> <thead> <tr> <th>Violation(s)</th> </tr> </thead> <tbody> <tr> <td>1101.559(a)</td> </tr> <tr> <td>1101.652(b)(01)</td> </tr> <tr> <td>22 TAC 535.002(h)</td> </tr> </tbody> </table>	Violation(s)	1101.559(a)	1101.652(b)(01)	22 TAC 535.002(h)	<p>Agreed two-year suspension of broker license fully probated for two years. Agreed administrative penalty of \$3,750.00.</p>	<p>Consumer Complaint Respondent acted as an intermediary between parties to a real estate transaction without first obtaining written consent from each party for the Respondent to act as an intermediary in the transaction. Respondent acted negligently or incompetently by failing to complete contract forms. Respondent failed to maintain required records for at least four years from the termination of a contract.</p>
Violation(s)						
1101.559(a)						
1101.652(b)(01)						
22 TAC 535.002(h)						
<p>Case#: 141203 MERRITT, PETER BRYANT (license # 185826) Real Estate Broker / Salesperson-I HOUSTON(HARRIS) Effective Date: 9/19/2014</p> <table border="1" data-bbox="110 877 370 972"> <thead> <tr> <th>Violation(s)</th> </tr> </thead> <tbody> <tr> <td>22 TAC 535.002(a)</td> </tr> </tbody> </table>	Violation(s)	22 TAC 535.002(a)	<p>Agreed reprimand of broker. Agreed administrative penalty of \$500.00.</p>	<p>Consumer Complaint Respondent is the designated broker of Peter Merritt, LLC. Peter Merritt, LLC, did not obtain written consent to act as an intermediary, and failed to properly supervise a salesperson sponsored by Peter Merritt, LLC.</p>		
Violation(s)						
22 TAC 535.002(a)						
<p>Case#: 141203 PETER B MERRITT LLC (license # 517954) Real Estate Company-O HOUSTON(HARRIS) Effective Date: 9/19/2014</p> <table border="1" data-bbox="110 1203 386 1392"> <thead> <tr> <th>Violation(s)</th> </tr> </thead> <tbody> <tr> <td>1101.559(a)</td> </tr> <tr> <td>1101.652(b)(01)</td> </tr> <tr> <td>22 TAC 535.002(a)</td> </tr> </tbody> </table>	Violation(s)	1101.559(a)	1101.652(b)(01)	22 TAC 535.002(a)	<p>Agreed reprimand of broker. Agreed administrative penalty of \$2,500.00.</p>	<p>Consumer Complaint Respondent did not obtain written consent to act as an intermediary. A salesperson sponsored by Respondent prepared a sales contract regarding the property and indicated that Respondent was acting as intermediary. Respondent failed to properly supervise or advise its sponsored salesperson of the scope of the salesperson's authorized activities under The Real Estate License Act.</p>
Violation(s)						
1101.559(a)						
1101.652(b)(01)						
22 TAC 535.002(a)						

Name and Location	Order	Basis For Order								
<p>Case#: 121493,121706,121771,131773 WILLIAMS, LATRICIA R (license # 447198) Real Estate Broker / Salesperson-I HOUSTON(HARRIS) Effective Date: 9/10/2014</p> <table border="1" data-bbox="115 558 394 936"> <thead> <tr> <th>Violation(s)</th> </tr> </thead> <tbody> <tr><td>1101.652(a)(05)</td></tr> <tr><td>1101.652(a)(06)</td></tr> <tr><td>1101.652(b)(01)</td></tr> <tr><td>1101.652(b)(02)</td></tr> <tr><td>1101.652(b)(09)</td></tr> <tr><td>1101.652(b)(10)</td></tr> <tr><td>22 TAC 535.154(e)</td></tr> </tbody> </table>	Violation(s)	1101.652(a)(05)	1101.652(a)(06)	1101.652(b)(01)	1101.652(b)(02)	1101.652(b)(09)	1101.652(b)(10)	22 TAC 535.154(e)	<p>Revocation of broker license. Assessment of an administrative penalty of \$44,000.00.</p>	<p>Consumer Complaint In three complaints, Respondent failed or refused to produce on request, for inspection by the Commission or a Commission representative, documents, books, and records that were in the license holder's possession and relate in two cases to leasing and property management services and in one case to acting as a buyer's agent. In the same three complaints, Respondent failed to provide, within a reasonable time, information requested by the Commission that related to the complaints. In four complaints, Respondent acted negligently or incompetently, acted in bad faith, failed to properly account for or remit money received from tenants that belonged to property owners or return earnest money she held to a buyer within a reasonable time, and commingled money that belonged to other persons with the license holder's own money. Respondent refused to turn over all documents and keys and remit all money that belonged to one property owner; she refused to turn over all documents, provide an accounting and remit money that belonged to a second and third property owner; and she refused to remit all money that belonged to her client, a prospective buyer.</p>
Violation(s)										
1101.652(a)(05)										
1101.652(a)(06)										
1101.652(b)(01)										
1101.652(b)(02)										
1101.652(b)(09)										
1101.652(b)(10)										
22 TAC 535.154(e)										
<p>Case#: 141443,141709 QUINONES, GILBERT JULIAN (license # 468280) Real Estate Broker / Salesperson-I COPPERAS COVE(CORYELL) Effective Date: 9/19/2014</p> <table border="1" data-bbox="115 1188 394 1524"> <thead> <tr> <th>Violation(s)</th> </tr> </thead> <tbody> <tr><td>1101.652(a)(05)</td></tr> <tr><td>1101.652(a)(06)</td></tr> <tr><td>1101.652(b)(01)</td></tr> <tr><td>1101.652(b)(02)</td></tr> <tr><td>1101.652(b)(09)</td></tr> <tr><td>22 TAC 535.002(d)</td></tr> </tbody> </table>	Violation(s)	1101.652(a)(05)	1101.652(a)(06)	1101.652(b)(01)	1101.652(b)(02)	1101.652(b)(09)	22 TAC 535.002(d)	<p>Assessment of an administrative penalty of \$152,000.00.</p>	<p>Consumer Complaint In 26 cases, Respondent entered into property management agreements and failed to turn over rent when due and security deposits when the property management agreements were terminated. In all cases, Respondent failed to cooperate with the Commission's investigation of the complaints.</p>	
Violation(s)										
1101.652(a)(05)										
1101.652(a)(06)										
1101.652(b)(01)										
1101.652(b)(02)										
1101.652(b)(09)										
22 TAC 535.002(d)										
<p>Case#: 131768 MCADAMS, DANIEL CHARLES (license # 507612) Real Estate Broker / Salesperson-I HOUSTON(HARRIS) Effective Date: 9/3/2014</p> <table border="1" data-bbox="115 1797 380 1944"> <thead> <tr> <th>Violation(s)</th> </tr> </thead> <tbody> <tr><td>1101.652(a)(03)</td></tr> <tr><td>22 TAC 535.144(b)</td></tr> </tbody> </table>	Violation(s)	1101.652(a)(03)	22 TAC 535.144(b)	<p>Agreed three-year suspension of broker license fully probated for three years. Agreed administrative penalty of \$3,500.00.</p>	<p>Consumer Complaint Respondent and a buyer entered into a sales contract. Respondent failed to disclose to Buyer that he was a real estate license holder. Buyer entered into a Deed of Trust and Note regarding the property and Respondent notarized his own name in the Deed of Trust. The Deed of Trust and the Note were not recorded. Buyer gave respondent a check that was intended to be a down payment toward the purchase of the property. The sales contract incorrectly stated the sales price of the property, the financing amount, and the amount that would be paid in cash. Buyer moved into the property and sent Respondent monthly payments. Respondent failed to disclose to Buyer that a bank held a prior lien on the property.</p>					
Violation(s)										
1101.652(a)(03)										
22 TAC 535.144(b)										

Name and Location	Order	Basis For Order			
<p>Case#: 140581 HALL, LESLIE GAIL (license # 548611) Real Estate Broker / Salesperson-I HOUSTON(HARRIS) Effective Date: 9/9/2014</p> <table border="1" data-bbox="110 541 373 634"> <tr> <th>Violation(s)</th> </tr> <tr> <td>1101.652(b)(01)</td> </tr> </table>	Violation(s)	1101.652(b)(01)	<p>Agreed reprimand of salesperson. Agreed administrative penalty of \$1,000.00.</p>	<p>Consumer Complaint Respondent, on behalf of her sponsoring broker, was the listing agent for a property. Respondent prepared an offer on behalf of a prospective buyer. Respondent did not obtain written consent to act as an intermediary, and prepared an Intermediary Relationship Notice incorrectly as it indicated that Respondent would be appointed as the agent for both the seller and the prospective buyer. Respondent forwarded the sales contract to the prospective buyer without flagging the changes made by seller. The prospective buyer did not realize changes had been made until the transaction neared closing. The prospective buyer objected to the changes, decided not to close on the property, and did not receive a full refund of his earnest money.</p>	
Violation(s)					
1101.652(b)(01)					
<p>Case#: 141938 SUMMERS, LETCHER WARD III (license # 465098) Real Estate Broker / Salesperson-I LONGVIEW(GREGG) Effective Date: 9/16/2014</p> <table border="1" data-bbox="110 997 360 1140"> <tr> <th>Violation(s)</th> </tr> <tr> <td>1101.652(b)(26)</td> </tr> <tr> <td>22 TAC 535.154(e)</td> </tr> </table>	Violation(s)	1101.652(b)(26)	22 TAC 535.154(e)	<p>Agreed reprimand of broker. Agreed administrative penalty of \$1,100.00.</p>	<p>Consumer Complaint Respondent formed a corporation and engaged in some of his brokerage activities through the corporation although the corporation did not have a real estate broker license. Respondent and some of his sponsored salespersons conducted advertising using the unlicensed corporation's name and, also, used an assumed name that had not been submitted to the Commission in writing. Respondent established an association by employment or otherwise with a person (or business entity) other than a license holder that was expected or required to act as a license holder. Respondent failed to notify the Commission in writing within 30 days after the broker, or a salesperson sponsored by the broker, started using an assumed name in business other than the name in which Broker was licensed.</p>
Violation(s)					
1101.652(b)(26)					
22 TAC 535.154(e)					
<p>Case#: 142125 PEPPER, REBECCA MONIQUE (license # 477989) Real Estate Broker / Salesperson-I BOERNE(KENDALL) Effective Date: 9/9/2014</p> <table border="1" data-bbox="110 1449 354 1591"> <tr> <th>Violation(s)</th> </tr> <tr> <td>1101.652(a)(04)</td> </tr> <tr> <td>22 TAC 534.2(a)</td> </tr> </table>	Violation(s)	1101.652(a)(04)	22 TAC 534.2(a)	<p>Agreed reprimand of broker. Agreed administrative penalty of \$500.00.</p>	<p>Administrative Complaint Respondent failed within a reasonable time to make good a check issued to the Commission. Respondent failed to pay the check processing fee within 15 days after the Commission had mailed a request for payment.</p>
Violation(s)					
1101.652(a)(04)					
22 TAC 534.2(a)					
<p>Case#: 141702 COLINDRES, MARCO ANTONIO (license # 634726) Real Estate Broker / Salesperson-I KILLEEN(BELL) Effective Date: 9/5/2014</p> <table border="1" data-bbox="110 1864 376 1957"> <tr> <th>Violation(s)</th> </tr> <tr> <td>1101.652(a)(06)</td> </tr> </table>	Violation(s)	1101.652(a)(06)	<p>Reprimand of salesperson. Assessment of an administrative penalty of \$1,500.00. Suspension of salesperson license until payment in full of the administrative penalty and requested information is received.</p>	<p>Administrative Complaint Respondent failed to provide, within a reasonable time, information requested by the Commission that relates to a formal or informal complaint to the Commission.</p>	
Violation(s)					
1101.652(a)(06)					

Name and Location	Order	Basis For Order				
<p>Case#: 141738 COLMENERO, JUSTIN ERYN (license # 581190) Real Estate Broker / Salesperson-I CORPUS CHRISTI(NUECES) Effective Date: 9/5/2014</p> <table border="1" data-bbox="110 464 365 558"> <tr> <th>Violation(s)</th> </tr> <tr> <td>1101.652(a)(01)</td> </tr> </table>	Violation(s)	1101.652(a)(01)	<p>Agreed four-year suspension of broker license fully probated for four years.</p>	<p>Administrative Complaint Respondent pled guilty to a felony offense.</p>		
Violation(s)						
1101.652(a)(01)						
<p>Case#: 142109 MARSH, ONETA HOPE (license # 369825) Real Estate Broker / Salesperson-I EL PASO(EL PASO) Effective Date: 9/9/2014</p> <table border="1" data-bbox="110 821 365 961"> <tr> <th>Violation(s)</th> </tr> <tr> <td>1101.652(a)(04)</td> </tr> <tr> <td>22 TAC 534.2(a)</td> </tr> </table>	Violation(s)	1101.652(a)(04)	22 TAC 534.2(a)	<p>Agreed reprimand of salesperson. Agreed administrative penalty of \$500.00.</p>	<p>Administrative Complaint Respondent failed within a reasonable time to make good a check issued to the Commission. Respondent failed to pay the check processing fee within 15 days after the Commission had mailed a request for payment.</p>	
Violation(s)						
1101.652(a)(04)						
22 TAC 534.2(a)						
<p>Case#: 141737 STEFAN, KELLY (license # 488627) Real Estate Broker / Salesperson-I ARLINGTON(TARRANT) Effective Date: 9/22/2014</p> <table border="1" data-bbox="110 1194 337 1383"> <tr> <th>Violation(s)</th> </tr> <tr> <td>1101.652(a)(01)</td> </tr> <tr> <td>1101.652(a)(02)</td> </tr> <tr> <td>1101.652(a)(09)</td> </tr> </table>	Violation(s)	1101.652(a)(01)	1101.652(a)(02)	1101.652(a)(09)	<p>Agreed six-year suspension of salesperson license fully probated for six years. Agreed administrative penalty of \$2,000.00.</p>	<p>Administrative Complaint Respondent pled guilty to a felony offense. Respondent failed to notify the Commission within 30 days after entry of a plea of guilty or nolo contendere to a felony offense, and failed to disclose this in her renewal.</p>
Violation(s)						
1101.652(a)(01)						
1101.652(a)(02)						
1101.652(a)(09)						
<p>Case#: 141301 ESTEVEZ, RICARDO M (license # 405143) Real Estate Broker / Salesperson-I SAN ANTONIO(BEXAR) Effective Date: 9/26/2014</p> <table border="1" data-bbox="110 1619 337 1713"> <tr> <th>Violation(s)</th> </tr> <tr> <td>1101.652(a)(01)</td> </tr> </table>	Violation(s)	1101.652(a)(01)	<p>Agreed four-year suspension of broker license fully probated for four years.</p>	<p>Administrative Complaint Respondent pled nolo contendere to a felony offense.</p>		
Violation(s)						
1101.652(a)(01)						

Name and Location	Order	Basis For Order			
<p>Case#: 141300 SANTACRUZ, MARTIN (license # 534402) Real Estate Broker / Salesperson-I SAN ANTONIO(BEXAR) Effective Date: 9/29/2014</p> <table border="1" data-bbox="110 420 347 512"> <tr> <th>Violation(s)</th> </tr> <tr> <td>1101.652(a)(01)</td> </tr> </table>	Violation(s)	1101.652(a)(01)	<p>Agreed five-year suspension of salesperson license fully probated for five years.</p>	<p>Administrative Complaint Respondent pled nolo contendere to a felony offense.</p>	
Violation(s)					
1101.652(a)(01)					
<p>Case#: 141634 COURTNEY, RYAN C (license # 592701) Real Estate Broker / Salesperson-I SAN ANTONIO(BEXAR) Effective Date: 9/30/2014</p> <table border="1" data-bbox="110 751 347 844"> <tr> <th>Violation(s)</th> </tr> <tr> <td>1101.652(a)(01)</td> </tr> </table>	Violation(s)	1101.652(a)(01)	<p>Agreed four-year suspension of salesperson license fully probated for four years.</p>	<p>Administrative Complaint Respondent pled nolo contendere to a felony offense.</p>	
Violation(s)					
1101.652(a)(01)					
<p>Case#: 141633 BEAUCHAMP, CHARLES ANTHONY (license # 360802) Real Estate Broker / Salesperson-I SPRING(MONTGOMERY) Effective Date: 9/12/2014</p> <table border="1" data-bbox="110 1079 347 1171"> <tr> <th>Violation(s)</th> </tr> <tr> <td>1101.652(a)(06)</td> </tr> </table>	Violation(s)	1101.652(a)(06)	<p>Reprimand of salesperson. Assessment of an administrative penalty of \$1,500.00. Suspension of salesperson license until payment in full of the administrative penalty and requested information is received.</p>	<p>Administrative Complaint Respondent failed to provide, within a reasonable time, information requested by the Commission that relates to a formal or informal complaint to the Commission.</p>	
Violation(s)					
1101.652(a)(06)					
<p>Case#: 142221,142157 SHIRE COMMERCIAL INC (license # 9003558) Real Estate Company-O AUSTIN(TRAVIS) Effective Date: 9/12/2014</p> <table border="1" data-bbox="110 1413 347 1505"> <tr> <th>Violation(s)</th> </tr> <tr> <td>1101.351(a-1)</td> </tr> </table>	Violation(s)	1101.351(a-1)	<p>Agreed two-year probationary broker license issued. Agreed administrative penalty of \$1,000.00.</p>	<p>Applications Applicant conducted brokerage activities without being licensed through a real estate broker and salesperson. Applicant demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be licensed as a real estate broker.</p>	
Violation(s)					
1101.351(a-1)					
<p>Case#: 142150,141938 L.W. SUMMERS REAL ESTATE GROUP INC (license # 9003566) Real Estate Company-O LONGVIEW(GREGG) Effective Date: 9/16/2014</p> <table border="1" data-bbox="147 1822 412 1959"> <tr> <th>Violation(s)</th> </tr> <tr> <td>1101.351(a)</td> </tr> <tr> <td>1101.351(a-1)</td> </tr> </table>	Violation(s)	1101.351(a)	1101.351(a-1)	<p>Agreed one-year probationary broker license issued. Agreed administrative penalty of \$1,000.00.</p>	<p>Applications Applicant conducted brokerage activities without being licensed through a real estate broker and salesperson. Applicant demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be licensed as a real estate broker.</p>
Violation(s)					
1101.351(a)					
1101.351(a-1)					

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: Applications and the 2015 AQB Criteria (Page 1) From the Commissioner (Page 2) TALCB Appointment Announced (Page 3) Rule Actions for the Upcoming Board Meeting (Page 4 and 5)

APPLICATIONS & THE 2015 REAL PROPERTY APPRAISER QUALIFICATION CRITERIA

As most appraisers know, changes to the [Real Property Appraiser Qualification Criteria](#) will become effective January 1, 2015. For a full description and list of these changes, please go to the [chart](#) on the Appraisal Foundation's website. All applications received by the TALCB on or after January 1, 2015, will be evaluated under the 2015 criteria, unless the exception for active duty military service applies.

To be considered for a license under the current *Real Property Appraiser Qualification Criteria*, an applicant must submit an application and satisfy all requirements for licensure, including education, experience and exam requirements, no later than December 31, 2014. If the TALCB determines that an applicant has not satisfied all of the requirements for licensure, that applicant will be required to meet all of the 2015 criteria. For example, if an applicant submits an application on December 31, 2014, but the TALCB determines that the applicant has not taken and passed the required examination

prior to December 31, 2014, or needs additional education courses and/or additional hours of experience, the applicant will be required to satisfy all of the 2015 criteria.

If you are planning to apply for a license or apply to upgrade your license before the end of the year, PLEASE DON'T WAIT UNTIL THE LAST MINUTE to submit your application! As a reminder, you may not schedule and sit for an exam until you receive approval to do so from the TALCB. This process can take 3-5 business days. In addition, due to the increased number of applications at this time, exam availability may be limited. Please note that it may take 60-90 days from the date a complete application is received by TALCB to fully evaluate the application for licensure. Please contact us at information@talcb.texas.gov or (512) 936-3001 if you have questions.

Fall has finally arrived, and between official business travel and the occasional football game, we have managed to keep the agency steadily moving toward the goals outlined in the strategic plan. We also welcome Mr. James Jeffries of Georgetown to the Board as an appraiser member and say a fond farewell to Mr. Luis De La Garza of Laredo who has served with distinction for over six years.

Kristen Worman, Mark Mrnak and I attended the Association of Appraiser Regulatory Officials (AARO) in Washington DC in October. We heard presentations from a host of federal agencies and of course the AQB, ASB and ASC. But the other agencies who have a major voice in AMC rules (FDIC, CFPB, OCC, etc.) also made time to offer updates on their efforts and progress, slow though it may be.

Most appraisers are aware that a new AQB requirement for a “Supervisor/Trainee” course will begin in January 2015 for all new such relationships. The Board is also considering whether to require all existing supervisors and trainees to take the course by a specific future date. More importantly, the Board is also considering developing a non-disciplinary trainee monitoring program that would allow trainees (and their supervisors) to get a periodic free “check-up” while gaining their experience. Such a program, when combined with the required course, may also meet the AQB’s requirements that would allow the Board to raise the number of trainees allowed per supervisor above the current limit of three.

The requirement that AMCs conduct appraisal reviews on at least 5% of the assignments each year is proposed to be reduced to 2% of the number of such appraisal reports. Many reports undergo multiple reviews by lenders before being approved for use. The requirement to review at least one of the first five reports from each new panelist remains; this is a common sense early quality check on each panelist. If the Board approves it, this will provide some relief to AMCs without a serious reduction in the USPAP audit function provided by this

requirement.

A proposed reduction in renewal fees for all license types, especially for trainees is up for adoption at the next meeting on November 21st. While the Board cannot recruit more trainees into the field - this is a professional association burden – we can lower the



Douglas E. Oldmixon

license fees to provide some encouragement. The approved budget dedicates the administrative penalties received by the agency to an Educational Development reserve fund, to be used to pay for development of educational opportunities that would benefit appraisers – perhaps a 2 hour ACE course in Texas law, rules and enforcement findings, or even a recurring study of appraiser fees in Texas to help to inform the “customary and reasonable” fee debate. Preliminary feedback is quite positive on this.

A new website is in development for the Board; it should be ready for launch in January. I know you will find it much more intuitive and easier to use, easier to update and also more attractive. Additional tools are being worked on that will assist with license status and renewal, finding other appraisers or AMCs, and tracking education and discipline. Once launched, we’d welcome your feedback.

I recently had the privilege of meeting with both FACT and ATA representatives for discussions. I consider these to be vital opportunities to hear from industry players and share the Board’s perspective on current regulatory trends and alternatives. I look forward to continued involvement.

TALCB Appointment Announced

Governor Perry has appointed Mr. James J. Jefferies of Georgetown to the Texas Appraiser Licensing & Certification Board (TALCB). Mr. Jefferies will serve as an appraiser member, replacing past Chair Louis De La Garza of Laredo. His term will expire January 31, 2016.

Mr. Jefferies has been a real estate appraiser since 1973 and currently holds a Certified General Appraiser license. In the past five years, Mr. Jefferies has prepared conservation easement appraisals on 70 properties covering approximately 355,000 acres for private and public clients. He has also rendered professional appraisal reviews on a large number of conservation easement appraisals prepared by other appraisers. In addition to this specialized conservation easement work, Mr. Jefferies has also prepared many other appraisals on farm and ranch properties.

Mr. Jefferies earned a Master's degree in political science from Ohio State University. He is a past President of the Austin Chapter of the Appraisal Institute (AI), the past Chair of the Texas Land Trust Council (TLTC), and has served on the Board of Directors of the Austin Chapters of AI, TLTC, and the Texas Chapter of the American Society of Farm Managers and Rural Appraisers (ASFMRA).

The Texas Appraiser Licensing & Certification Board works to protect the public through the agency's programs of education, licensing and regulation to ensure that real estate appraisers and appraisal service providers are competent and trustworthy. More information on the Board and its programs can be found at www.talcb.texas.gov.

IMPORTANT DATES TO REMEMBER

TALCB Workshop Meeting—November 20

TALCB Meeting –November 21

Check the [TALCB website](http://www.talcb.texas.gov) regularly for postings of all of our upcoming meetings.

ADOPTED RULES

The Board adopted amendments to the following rules at its meeting on August 15, 2014. These amendments were effective September 7, 2014. You may review the full text of these rules on the [Rules section](#) of the TALCB website.

22 TAC, Chapter 153:

- 22 TAC §153.3. The Board**
- 22 TAC §153.5. Fees**
- 22 TAC §153.8. Scope of Practice**
- 22 TAC §153.9. Applications**
- 22 TAC §153.10. Issuance of Certification, License, or Trainee Approval**
- 22 TAC §153.11. Examinations**
- 22 TAC §153.13. Educational Requirements**
- 22 TAC §153.15. Experience Required for Certification or Licensing**
- 22 TAC §153.17. Renewal or Extension of Certification and License or Renewal of Trainee Approval**
- 22 TAC §153.18. Appraiser Continuing Education (ACE)**
- 22 TAC §153.19. Licensing and Certification for Persons with Criminal Histories**
- 22 TAC §153.20. Guidelines for Revocation, Suspension, Denial of Licensure or Certification; Probationary Licensure**
- 22 TAC §153.21. Appraiser Trainees and Sponsors**
- 22 TAC §153.23. Inactive Status**
- 22 TAC §153.24. Complaint Processing**
- 22 TAC §153.25. Temporary Out-of-State Appraiser Registration**
- 22 TAC §153.26. Identity Theft**
- 22 TAC §153.27. Certification and Licensure by Reciprocity**
- 22 TAC §153.33. Signature or Endorsement of Appraisal**
- 22 TAC §153.37. Criminal Matters Referred to Law Enforcement**

Amendments to 22 TAC, Chapter 153 were adopted following a comprehensive rule review for this chapter to better reflect current TALCB procedures, to conform TALCB rules with criteria established by the Appraiser Qualifications Board, and to simplify and clarify where needed. The amendments capitalize the term “Board” and replace the term “licensee” with “license holder” throughout the Chapter. The adopted amendments also remove redundant or unused provisions and restructure certain rules to improve readability. Other specific amendments include:

The amendments to §153.3 clarify that the TALCB meetings are conducted in accordance with Robert’s Rules of Order unless state law or TALCB rules require otherwise. The amendments to §153.8 remove an outdated subsection relating to provisional licenses, which are no longer issued by the TALCB. The amendments to §153.9 clarify the date on which an applicant may reapply after TALCB initially denies a license application. This amendment conforms §153.9 with the changes previously made to §157.7 relating to Denial of a License.

The amendments to §153.11 clarify that an examination fee must be paid each time an examination is taken. The amendments to §153.17 clarify the deadlines and requirements for renewing a license or requesting an extension to renew a license.

The amendments to §153.18 clarify the requirements for Appraiser Continuing Education. The amendments to §153.19 clarify the licensing requirements for persons with criminal history and remove redundant provisions to better align the rule with the requirements in Texas Occupations Code §53.022. The amendments to §153.21 clarify the obligations of a sponsoring appraiser.

The amendments to §153.23 clarify when a license holder may request to be placed on inactive status and the requirements that must be satisfied for a license holder to return their license to active status. The amendments to §153.24 capitalize the terms “Complainant” and “Respondent” and restructure the text of the rule to clarify when a formal complaint is opened.

PROPOSED RULES

The Board proposed amendments to the following rules at the Board meeting on August 15, 2014. These proposed amendments are on the agenda for adoption by the Board at the upcoming November 21, 2014 meeting.

22 TAC, Chapter 153:

- a. **22 TAC §153.1. Definitions**
- b. **22 TAC §153.5. Fees**

The proposed amendments to §153.1. Definitions eliminate redundant definitions for terms defined elsewhere in state law and correct a reference to the Appraiser Qualifications Board. The proposed amendments to §153.5. Fees reduce renewal fees for license holders.

22 TAC §157.31. Investigative Conference

The proposed amendments to §157.31. Investigative Conference clarify the information that will be provided to a respondent prior to holding an investigative conference.

22 TAC, Chapter 159:

- 22 TAC §159.1. Definitions**
- 22 TAC §159.3. Appraisal Management Company Advisory Committee**
- 22 TAC §159.4. Jurisdiction and Exemptions**
- 22 TAC §159.52. Fees**
- 22 TAC §159.101. Registration Requirements**
- 22 TAC §159.102. Eligibility for Registration; Ownership**
- 22 TAC §159.103. Applications**
- 22 TAC §159.104. Primary Contact; Appraiser Contact**
- 22 TAC §159.105. Denial of Registration**
- 22 TAC §159.107. Expiration**
- 22 TAC §159.108. Renewal**
- 22 TAC §159.109. Inactive Status**

- 22 TAC §159.154. Competency of Appraisers**
- 22 TAC §159.155. Periodic Review of Appraisals**
- 22 TAC §159.156. Business Records**
- 22 TAC §159.157. Compensation of Appraisers**
- 22 TAC §159.159. Disclosure of Registered Name and Registration Number**
- 22 TAC §159.161. Appraiser Panel**
- 22 TAC §159.162. Dispute Resolution**
- 22 TAC §159.201. Guidelines for Revocation, Suspension or Denial of a Registration**
- u. 22 TAC §159.204. Complaint Processing**

The proposed amendments to 22 TAC, Chapter 159 are made following a comprehensive rule review for this Chapter to better reflect current TALCB procedures and to simplify and clarify where needed. The proposed amendments capitalize the term “Board” and replace the term “licensee” with “license holder” throughout the Chapter. The proposed amendments also remove redundant or unused provisions and restructure certain rules to improve readability. Other specific proposed amendments include:

The proposed amendments to §159.155 reduce the percentage of reviews that an Appraisal Management Company (AMC) must perform from five to two percent.

The proposed amendments to §159.109 allow an AMC to renew its license while the license is on inactive status.

RULE REVIEW

The Board completed and closed the quadrennial review of Chapter 153, 22 Texas Administrative Code, Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act.

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 Administrator



Douglas E. Oldmixon

From the Administrator

Over the past couple of months, two inspector trade associations - Texas Association of Real Estate Inspectors (TAREI) and Texas Professional Real Estate Inspectors Association (TPREIA) - have cohosted a series of inspector "town hall" meetings to discuss the "future of the industry". Champions School is also hosting an Inspector Luncheon on November 21 with the same topic to be discussed. The Commission is very pleased that the inspector associations have come together in a productive manner to assert their common interests. It is something the Commission has worked to facilitate for over five years.

Several Commissioners and I met with representatives of TAREI and TPREIA last week to hear the concerns expressed and the meeting was cordial. Some of the specific issues raised require a response from the Commission and this column will help to begin that process. Several issues tend to overlap.

- Many attendees are concerned that inspectors are regulated by the same agency that regulates

real estate brokers and sales agents, asserting an inherent "conflict of interest", citing a belief that the consumer's best interest may not be served by this arrangement.

Real estate license holders have a fiduciary obligation to serve the best interest of the party they represent. Inspectors have a contractual obligation to do the same. This aligns both the broker/agent and the inspector on the same team – if they both represent the same party. There is no inherent conflict of interest between these two professionals. However, a broker/agent may represent the other party to a transaction and would be required to protect that party's interest. If the home inspector's observations and opinions are offered in a straightforward manner without unsupported "findings", all parties are likely to respect the report's contents – regardless of which party the report is prepared for.

- Inspectors do not have a voice at the Commission. Some Inspector Committee members have potential conflicting interests, e.g. are instructors or have close ties to a real estate organization.

Six members of the Inspector Committee are professional inspectors, and members of one or more trade organizations. Three are "public" members - no inspector license holders allowed in this category.

The committee's role is to recommend rules for the protection of the public, not protection of the inspector career field. More than one inspector member teaches continuing education for inspectors. This can be a major plus as it demonstrates a higher concern for ensuring well-educated inspectors to provide better service to consumers. One inspector member also holds a broker license, but inspecting is his primary business. One public member also serves as a local real estate association manager. The Commission would prefer not to appoint any member that others might perceive as "biased" in any manner. However, appointments have been offered to the most qualified volunteers with no active conflict of interest. As I stated to the TAREI and TPREIA representatives recently, PLEASE help us recruit qualified persons to serve as both inspector and public members on the committee. The only restriction is the inspector may not currently serve as a voting officer or board member at an inspector trade association and a public member may not hold an active license in the real estate industry.

- There have been too many revisions to the Standards of Practice and the report form.

In the last five years, since September 2009, there has been just one major revision to the Standards of Practice and one corresponding change to the Report Form, with one recent addition to clarify the scope and characteristics of any additional materials, disclosures and contractual terms that an inspector may include with the report form. This seems a reasonable amount of change over an extended period.

- Trade associations are finding it more difficult and more expensive to get inspector continuing education (ICE) classes approved. Instructors are harder to find as well.

Since the creation of education standards for inspectors, trade associations have been exempt from registering with the Commission as a provider of "qualifying" (core) pre-license courses. Pre-license

courses have always been acceptable for credit to meet continuing education requirements, but with no end-of-course exam required. Trade associations received an advantage under this arrangement and were not required to register as ICE providers until, based on the Committee's recommendation, the Commission strengthened the program standards and formalized the requirements for ICE. Even so, the requirements are quite flexible and less expensive than those for real estate CE providers. Approval of a CE provider for two years is \$200 per year and allows a provider to offer classes for both real estate and inspector license holders. Course approvals for a two-year period are \$50 plus \$10 per class-hour for CE courses but just \$5 per hour (proposed) for ICE courses. Instructor approvals for two years are \$75 per year for teaching CE courses and just \$25 per year for teaching ICE courses. These fees are needed to cover the cost of administering the Commission's education program. Ponder how many license holders would belong to and attend a trade association if there was no requirement for continuing education?

- Some concerns about the potential elimination of the Inspector Recovery Fund. What would happen to the monies in the Fund?

Since Errors & Omissions Insurance (professional liability insurance) became mandatory in 2007, claims against the recovery fund have continued to dwindle. For the last three years, no claims have been paid from the fund. In fact, the Commission has proposed reducing the initial fund contribution from \$100 to just \$10. In 2013, when a proposed bill was drafted that included a provision to eliminate the fund, the plan for orderly disposition of the fund included these steps: return \$100 to each active license holder who had contributed to the fund; set a deadline for filing any potential claims against the fund and resolve those claims – if any; then pay the remaining fund balance into Texas' general revenue account. This was deemed to be a fair way to manage the dissolution of this particular fund that no longer serves the purpose

for which it was established. At the time, TAREI supported the proposal and TPREIA did not. Because there was not agreement, the bill's sponsor requested that it be removed from the draft.

I hope these responses help to bring some clarity to the concerns expressed by the trade associations on behalf of the 2,500 active inspectors in Texas. If any inspector has a question or concern, please feel free to send me an email at

douglas.oldmixon@trec.texas.gov.

The Commission exists to protect the people of Texas by administering licensing programs with both meaningful education standards and fair enforcement. Know that the Commissioners take their job seriously and expect the volunteers who

serve on the many advisory committees to do the same. If you have any interest in serving on the inspector committee or know another inspector or public member who would be an asset to the committee, please encourage them to volunteer. Aim high...the people of Texas deserve it!

IMPORTANT DATES TO REMEMBER

TREIC Meeting – February 27

SOP Subcommittee Meeting – February 27

Check the [TREC website](#) regularly for postings of all of our upcoming meetings.