

TREC Advisor

Our agency protects consumers of real estate services in Texas by ensuring qualified and ethical service providers through upholding high standards in education, licensing, and regulation. We oversee the providers of real estate brokerage, appraisal, inspection, home warranty, timeshares and right-of-way services, thereby safeguarding the public interest while facilitating economic growth and opportunity across Texas.



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DO I HAVE TO KEEP EVERY CLIENT?

Standards & Enforcement Services frequently gets this question. What seemed like a good fit when the representation of the client was first established at some point becomes frustrating. What if agreed upon expectations for communications between the principal and the agent are not being honored? If you wish to terminate a client relationship, first consider the following:

- Is there a written representation agreement? What does it say about termination?
- If you are a sales agent, have you discussed the proposal with your sponsoring broker?
- Depending on the details or timing of any transaction involving this client, will your terminating the agreement cause harm to, or jeopardize a transaction with, your client? Will this be a breach of your fiduciary duty to your client?

Strict adherence to contractual provisions and consideration of any potential harm to the client may avoid a complaint with the Commission. Clear, direct communications can avert a future complaint.

Fee Reductions

Beginning January 1, 2017, real estate sales agent license renewals will drop by \$6 – from \$72 to \$66 – for the two-year license renewal.

The new fee will automatically be applied to the license renewal when it is due. In addition, all licenses that require a criminal history background check will see a \$2.75 fee reduction to \$27, a change which took place November 1. The cost for a criminal history check is a service fee collected for the Texas Department of Public Safety and the FBI.

FROM THE CHAIR



Avis Wukasch, Chair

As we approach the Holiday Season, it benefits each of us to count the blessings and accomplishments of the year now coming to a close and to make plans for the new year ahead. 2016 has been a very good year for the Commission and we hope that it has also been so for each of you.

2017 brings a new legislative session and reminds us of the constant vigilance we must exercise to remain effective. We commit to fulfill our ever-relevant mission of protecting Texans who are real estate service consumers.

The Commission met for its regular meeting on November 14th. In addition to the normal business of staff reports on the many projects we have underway, and the hearing of several disciplinary matters, we also finalized a few rules and lowered license renewal fees for sales agents. A productive meeting.

From staff, we heard good news on several recurring projects that have reached milestones, including a major accomplishment in finalizing the digital scanning of historical license files, as well as the upgrade of our licensing database to a newer version with significant new capabilities. We got a preview of the planned new TREC website set to launch in January, and we think you will find it very functional.

Based on our ongoing commitment to reduce fees where possible, the Commission adopted rules to reduce fees for sales agents by \$6 per license renewal period, effective January 1, 2017. This represents the fourth fee reduction since 2011. And based on the feedback from numerous comments received, the Commission also modified and re-proposed a rule clarifying the scope of license requirements for showing a property to prospective tenants or buyers, with unescorted access to vacant

property proposed to be allowed under limited circumstances with approval of the property owner. The new proposed rule text is on our website and we welcome your input. Our goal is to protect your clients and meet their legitimate expectations for service and safety as envisioned by the statutes.

Planning for a summit on single family residential real estate issues in Austin in February continues to advance, with half of the three-hour event focused on real estate transaction issues and half on property valuation issues. The event is co-sponsored by the Real Estate Center at Texas A&M, the Texas Association of REALTORS, the Commission and the Board. As the Chair, I will moderate a panel of related industry professionals to explore potential solutions to current challenges that affect many home sale transactions. CE credit will be awarded to all license holders who attend. We invite you to join us on February 10th in Austin from 1-4 PM, just before the kick-off of TAR's Winter Meeting. As planning develops further, more details will be on our website and in the next Advisor.

We wish all of the Commission members and staff, and all of the licensed professional real estate services community in Texas, the very best of Holidays and a most prosperous New Year!

MARK YOUR CALENDARS!

1st Annual Texas Residential Realty Issues Summit

Hosted by Texas Real Estate Commission, Texas Appraiser Licensing and Certification Board, Real Estate Center at Texas A&M, and Texas Association of REALTORS

"INSIDE THE RESIDENTIAL TRANSACTION WITH INDUSTRY PARTNERS"

Hear interactive panels of experienced industry and regulatory professionals discuss current issues and trends affecting successful closing of single family residential transactions.

Friday, February 10, 2017

1 to 4 PM

Hyatt Regency Hotel
208 Barton Springs Road
Austin TX 78704

TREC Employee Update



Jeffery McBride, Jr. *Reception & Communications Services*

Jeffery joined the agency in September as a Customer Service Representative. Born and raised in Austin, he is a 78745'er at heart, having attended both Crockett High School and St. Edwards University. Following college, Jeffery moved to Chicago where he helped found and manage a successful community newspaper for more than a decade. During this time he also became a true blue Cubs fan, and retains his life-long love for the Dallas Cowboys.

Jeffery returned home to Austin in 2010. He is happy to be joining TREC in a position that will draw on his extensive private sector experience to help serve the citizens of Texas. In his free time he and his spouse enjoy hiking, kayaking, theater and most especially movies.



Semoya Moore *TREC Education & Licensing Services*

Semoya Moore began employment with TREC in November as a License Permit Specialist and is initially responsible for processing sales original applications and reinstatements. Semoya has a B.A. degree in Business Management and was most recently employed as a Default Prevention Counselor with Loan Science. She was also employed with Huston-Tillotson as a Financial Literacy/Default Prevention Coordinator where she reviewed documents and entered data for FAFSA. Semoya enjoys cooking and shopping.

IMPORTANT DATES TO REMEMBER

Christmas Holiday – Office Closed—December 23-26, 2016

Education Standards Advisory Committee—January 23, 2017

Annual Texas Residential Realty Issues Summit—February 10, 2017

TREC Commission Meeting—February 13, 2017

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

UNLICENSED ASSISTANTS CANNOT HOST OPEN HOUSES

At its November meeting, the Commission removed the rule section allowing an unlicensed assistant to host an open house, effective December 7, 2016. See §535.5 below.

RULES ACTIONS FROM THE NOVEMBER COMMISSION MEETING

The following amendments or new rules were adopted at the November 14, 2016 meeting of the Commission and are effective December 7, 2016 unless otherwise indicated below. You can see the full text of these rules on the “Recently Adopted Rules” section of the TREC website.

§534.2, Processing Fees for Dishonored Payments.

The amendments are adopted to clarify that a processing fee is due when a payment to the Commission, through any form of payment, is dishonored or reversed due to insufficient funds or for any other reason, including stop-payment.

§535.2, Broker Responsibility. The amendments are adopted to clarify that a broker must notify the Commission when the appointment of a delegated supervisor has ended except that a newly licensed broker or a broker associate named as a delegated supervisor is responsible to notify the Commission if their status as a delegated supervisor changes. The rule was also updated to replace the term “salesperson” with the new statutory term of “sales agent.”

§535.5, License Not Required. The amendments are adopted to delete the rule exception allowing an unlicensed person to act as a host at an open house. This exception was put in place prior to the statutory requirement for consumer protection that license holders must pass criminal background reviews prior to licensure. The rule was also updated to replace the term “salesperson” with the new statutory term of “sales agent.”

§535.45, Certain uses of Seal, Logo, or Name Prohibited. The amendments are adopted to clarify that license holders may not use the seal, logo, or name of the Commission to imply they are a government agency or have received special

Commission endorsement or status.

§535.57, Examinations. The amendments are adopted to clarify the period that examination results remain valid for an application and better align the rules with the statutory period set forth in Texas Occupations Code, §1101.401(f). **Effective 2/1/17**

§535.62, Approval of Qualifying Courses. The amendments are adopted to clarify that authorization for subsequent use of a previously approved course must be given by the owner of the rights to the course, which may or may not be the provider for whom the course was initially approved.

§535.65, Responsibilities and Operations of Providers of Qualifying Courses. The amendments to subsection (j) are adopted to remove the requirement for education completion certificates to include the registration date since that information is not necessary for the Commission to calculate compliance with statutory timeframes for course completion. The amendments to subsection (k) are adopted to clarify that the questions required by the Commission on the approved evaluation and the order they appear are what is required, not the use of the actual form.

§535.72, Approval of Non-elective Continuing Education Courses. Amendments to subsection (i) clarify that classroom students must take the promulgated final examination independently prior to the instructor reviewing the correct answers and to correct the reference to the third party proctor definition. No comments were received on those proposed amendments. The remainder of proposed changes are being removed on the recommendation of the Texas Real Estate Inspector Committee at this time so that a more comprehensive approach and rule regarding all non-elective coursework can be brought

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RULES UP FOR ADOPTION AT THE NOVEMBER COMMISSION MEETING

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forward at a later date.

§535.73, Approval of Elective Continuing Education Courses. The amendments are adopted to clarify that authorization for subsequent use of a previously approved course must be given by the owner of the rights to the course, which may or may not be the provider for whom the course was initially approved.

§535.101, Fees. The amendments implement the budget and budget policies adopted by the Commission at their August meeting. Accordingly, renewal fees for sales agents are being reduced by \$6. Additionally, the fee section for examinations was amended to indicate that those fees are a pass-through fee negotiated in a contract with the vendor and can vary from contract to contract. Finally, the rule was amended to clarify that a processing fee is due when a payment to the Commission, through any form of payment, is dishonored due to insufficient funds or any other reason, including stop payment. **Effective 1/1/17**

§535.218, Continuing Education Required for Renewal. Amendments to subsections (d) and (g) allow license holders to receive continuing education credit for education courses taken outside of Texas and for in-person attendance at the February meeting of the Texas Real Estate Inspector Advisory Committee. Amendments to subsections (a) and (f)

make typographical corrections and conforming changes for consistency with other Commission rules.

Amendments to subsection (a)(1)(B) are being removed at this time on the recommendation of the Texas Real Estate Inspector Committee, so that a more comprehensive approach and rule regarding all non-elective inspector continuing education coursework may be brought forward at a later date.

The Texas Real Estate Inspector Committee also recommended adding language to the rule as proposed to clarify when a license holder may receive continuing education credit for a course taken outside of Texas and to clarify the existing practice in another rule of allowing a license holder to receive continuing education credit for courses offered by an exempt provider. The Commission agrees with this recommendation and adopts additional language in subsections (d) and (e) for clarification.

§535.4, License Required. WITHDRAWN and repropose as indicated under Proposed Rules.

§535.63, Approval of Instructors of Qualifying Courses. WITHDRAWN

§535.74, Approval of Continuing Education Instructors. WITHDRAWN

§§535.201, Definitions, and 535.212, Education and Experience Requirements for a License.

RULES PROPOSED AT THE NOVEMBER COMMISSION MEETING

The following amendments were proposed at the November 14, 2016, meeting of the Commission and are up for adoption at the February 13, 2017, meeting. You can see the full text of these rules on the "Proposed Rules" section of the TREC website. Written comments on the proposed rules can be sent to general.counsel@trec.texas.gov and must be received prior to 5 p.m. January 9, 2017 to be considered by the appropriate advisory committee and included in the materials for the February meeting. After that date, comments will need to be made in person at the meeting.

§535.4, License Required. The amendments are proposed to clarify the definition of what constitutes showing property in light of the statutory requirement that license holders must pass criminal background reviews prior to licensure. The amendments also set out the circumstances under which a license holder can provide an unescorted person access to a vacant rental property. The rule was also updated to replace the term "salesperson" with the new statutory term of "sales agent."

§535.61, Approval of Qualifying Courses. The proposed amendments to §535.61 ensure greater

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RULES PROPOSED AT THE NOVEMBER COMMISSION MEETING

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consumer protection by requiring out-of-state providers to substantially meet the same standards required for in-state providers before they can offer a course for credit to Texas consumers.

§535.64, Content Requirements for Qualifying Real Estate Courses. The proposed amendments to §535.64 set out the topics and times required for the content for the Real Estate Math Qualifying Course, with the guideline form for course approval containing specific units being proposed by reference in the rule.

§535.216, Renewal of License. The proposed amendments to §535.216 clarify the process for renewing an expired inspector license when the license has been expired for less than six months.

TREC Enforcement Actions

Enforcement and disciplinary actions taken by the Texas Real Estate Commission are available on the [TREC website](#).

Information is accessible by month and is searchable by name, license number, city, and county.

