



# 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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## ***THE NEW CONTINUING EDUCATION (CE) POSTING SYSTEM***

The new Continuing Education (CE) Posting System is up and running! This new system makes it possible for approved CE providers to post course completion information directly into the TREC data base. This functionality will complement recent amendments to the Commission rule regarding the timing of payment of the CE Deferral Fee (see below).

The Commission and CE providers want to make sure that credit is awarded as soon after course completion as possible so license holders can timely renew their license without having to incur the CE Deferral Fee. Commission rules have always required that CE providers submit course completion information to TREC within 10 days after a course is completed (reference §535.75 of the Rules of the Commission). The posting system will support the provider's ability to not only meet that timeframe but

beat it. CE providers will no longer be required to fax, email, or "snail mail" CE course completion documents to the Commission. However, providers will still be required to retain course completion documents in a paper or electronic file for TREC review and audit.

This is a timely reminder for license holders that CE should be completed well before the license renewal date so CE can be reflected in TREC's records and the license can be renewed timely without the need to purchase an extension. License holders attending courses offered within 10 days of their license expiration date are on notice that they will need to purchase the 60 day extension if their CE is incomplete or hasn't been posted to TREC records when they renew.

TREC has emailed notification of the availability of the posting system with instructions on how to register and create a password to the operations manager of record for all CE providers. In a few

days CE providers may also access the TREC website for direction and instructions on how to post to the new system and may contact TREC Education staff at 512-936-3120 if there are questions. CE providers are excited about the new posting system and the ability to control when course completion credit is actually awarded to students.

### **CE DEFERRAL FEE REMINDER**

The CE Deferral Fee is now due at the time of your renewal.

Effective Jan. 1, the \$200 fee is charged at the time you renew if your TREC record does not show completion of all required CE.

Payment of the fee gives you a 60 day extension from your expiration date to complete your CE.

To avoid paying this fee, take your CE well in advance of your expiration date to allow time for your education provider to submit your CE credits to TREC.

## From the Administrator

Now that the new year is a month old, we are settled in and operating smoothly under the rule and fee changes that took effect on January 1, 2015. License renewal fees were reduced as promised. Continuing Education rosters are now uploaded directly to the TREC database by CE providers, ensuring that class completion data is more timely recorded, which directly enhances another timely renewal process improvement.

Everyone understands that completing CE classes is a requirement of renewing your license. Our online access tool now warns you if you are trying to renew a license and our records do not show your CE having been completed. That gives license holders a final reminder and the option to 1) complete the CE before renewal or 2) purchase the 60 day extension for \$200. If you have not completed your CE before you renew, purchasing the extension is the only other available alternative.

The 84<sup>th</sup> Legislature is now in session and our attention naturally turns to working cooperatively with our stakeholders groups to both advance and protect the interests of license holders. We are working closely with the Texas Association of Realtors to ensure that the measures we are seeking will receive a fair hearing and pass this session. Among them are provisions to clarify education requirements, end diversions of funds to purposes unrelated to the practice of real estate, and protection of the recovery fund from unwarranted claims. Enhancements sought include updating terminology to cover certain areas of practice

and revising key notices to consumers and clients. Other elements that we hope to improve involve increased emphasis on education for promulgated contracts, more flexibility for continuing education, and enhanced

confidentiality of complaint investigations. We'd appreciate your help in getting these topics addressed and passed when you come to the hill in April. Stay tuned for progress reports all through the Spring.

Our next regularly scheduled meeting is on Monday, February 9<sup>th</sup>. The Texas Association of Realtors midyear meeting will begin the weekend prior and the legislative session will have begun, so if you are in town, please stop by to see your commission at work. We promise the Commission will continue do its part to assist you in serving Texans with the highest standards in the real estate profession. Our appreciation goes out for your continued support and for making our job easy with your professionalism. Thank you for your commitment to excellence in all we do. Aim high!



Douglas E. Oldmixon

### IMPORTANT DATES TO REMEMBER

TREC Commission Meeting—February 9

ESAC Working Group Meeting—March 31

ESAC Committee Meeting—April 7

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

## *What are TREC's Top Complaints?*

Last June 2013, we discussed TREC's top complaints ("What Am I Doing Wrong?"). As we start 2015, here's an update for 2014.

### **What Am I Doing Wrong?**

Probably nothing. 99 percent of real estate agents have no violations in the past two to three years. Since we all want to keep it that way (or do even better), we'll list the various categories of violations and let you know the rough percentage for each.

### **The Subjects of TREC Complaints**

Despite the low number of violations, the Standards & Enforcement Services Division is frequently asked – what are your top complaints?

The division received over 1000 complaints related to brokers and sales agents in Fiscal Year 2014 (September 2013 through August 2014). Based on data tracked from fiscal year 2014, as well as staff impressions, here is what we are seeing a lot of:

- About 22 percent of complaints relate to leasing and property management (mostly the latter):
  - Leasing/Property Management - Misappropriation, includes misappropriation, commingling, and failure to properly account for money
  - Leasing/Property Management - Other, includes general negligence, referrals, etc.
- About 8 percent of complaints relate to advertising
- About 8 percent of complaints relate to unlicensed activity
- About 6 percent of complaints relate to licensure issues such as criminal background history, application disapprovals, probationary licenses, etc.
- About 6 percent of complaints relate to broker supervision, which is a broker's failure to supervise sponsored salespersons
- About 5 percent of complaints relate to a breach of fiduciary duty, which includes false promises
- About 5 percent of complaints relate to TREC administrative actions such as bad checks to the agency, or a license holder's failure to cooperate or to provide current contact information, etc.

- And about 33 percent of complaints are in the miscellaneous category of "Sales – Other", which includes general negligence, rebates, improper referrals, and earnest money issues
- What else?

We also receive a number of complaints related to a license holder's actions as a principal in a transaction (about 3 percent), failure to disclose (about 2 percent), intermediary/IABS violations (about 1.5 percent), improper form usage (about half a percent), and sales misappropriation (about half a percent).

We receive a large number of inquiries related to advertising, but we do not receive a large percentage of signed complaints on that issue. Because we do not accept anonymous complaints and typically cannot conduct a covert investigation, we are very limited in what we can do with an unsigned complaint.

In addition, we frequently enforce issues arising out of criminal background checks on renewals when the license holder fails to timely disclose a plea of guilty or nolo contendere to a criminal offense involving a felony or fraud (under "licensure issues" above). Another area where we frequently find violations is a broker's failure to register the broker's or salesperson's dba or assumed name with us (under "administrative" above).

### **Where can I find out more?**

If you want to know more, please go to the "Complaints" tab and then the "disciplinary actions" section (left side of page) on our website [www.trec.texas.gov](http://www.trec.texas.gov). That area provides some details regarding many of the complaints (see also this newsletter under "TREC Enforcement Actions"). The Enforcement FAQs (in the same section on our website) address many other recurring issues, including some examples. Finally, we publish a monthly staff report called "Complaint Subject Categories" which details the categories and percentages cited in this article. That report is on our website under the "News & Public Data" tab and "Monthly Staff Reports" (on the left side of the page).

## *Rules Proposed for Adoption at February 9, 2015 Commission Meeting*

### **§535.53. Business Entity; Designated Broker**

The proposed amendments clarify the requirements necessary to apply for a business entity broker license and add language regarding what is required to meet the “in good standing” with the Commission standard set out in §1101.355 of the Texas Occupations Code for a broker to act as a designated broker for a business entity.

### **§539.81. Funded Reserves**

The proposed amendments clarify what the Commission considers an acceptable “admitted insurer” that a residential insurance company can use to cover the liability remaining under the outstanding residential service contracts written in Texas in lieu of maintaining a funded reserve. This amendment will enable the Commission to ensure that consumers of

residential service contracts have adequate protection as new insurance products become available to residential service companies.

### **§535.212. Education and Experience Requirements for a License**

The proposed amendments revise the options through which an applicant may satisfy the field work component of the substitute experience requirement. The proposed amendments define the term “interactive experience training module,” increase the methods of delivery to satisfy each training option and reduce the required hours under one option to lower costs and promote hands-on training. The proposed amendments also extend the deadline that eliminates one option to allow course providers more time to develop courses for the other two options.

## ***REMINDER OF DEADLINES FOR REVISION OF QUALIFYING (CORE) COURSES***

We’re fast approaching the February 17, 2015 deadline to submit revisions to the Law of Agency courses offered by alternative delivery methods. Many qualifying (core) education providers have already submitted their courses. Note that providers are instructed to submit courses far enough in advance to allow for review and approval so the new versions are available when required. Providers should be sure to advise any students currently enrolled in a Law of Agency course that has not been revised to complete the course prior to the February 17th deadline to ensure that qualifying credit can be awarded. TREC Education staff is working hard to review courses as they are submitted to allow providers enough time to make courses available for students before or by the deadlines.

Law of Contracts and Promulgated Contract Forms courses offered via classroom delivery must be revised and approved by March 3, 2015. The deadline for the alternative delivery versions of these two courses is June 3, 2015. Providers who do not submit revised courses for review and approval prior to the deadlines will find that students will not receive qualifying, pre-licensure credit. In instances in which courses have not been approved based on the required content revisions, providers may have to issue refunds and/or direct students to retake the course from another provider. For specific details, please read §535.62 of TREC rules and reference the September 2014 issue of the Advisor which included some frequently asked questions regarding this topic and included a chart listing the revision deadline dates for each course. If you have additional questions regarding this subject, please send an email to [education@trec.texas.gov](mailto:education@trec.texas.gov)

## *TREC Enforcement Actions*

The Texas Real Estate Commission has published enforcement actions taken in December. 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"](#) .

### ***EDUCATION SPECIALIST II JOB VACANCY AVAILABLE***

TREC's Education & Licensing Services Division is looking for well-qualified individuals to fill two Education Specialist II vacancies within the Education Section. We are searching for applicants who have a four year college degree with at least two years' experience reviewing complex documents and ensuring compliance with regulatory standards. Experience in the field of adult education is important!

Applicants must have knowledge of general business procedures and be able to perform data entry. They must have a professional image, strong communication and organizational skills, be willing to multi-task and function as a team player. If you or someone you know in the Austin area is looking for a challenging job and meet these qualifications, please go to the TREC website at [www.trec.state.gov](http://www.trec.state.gov) to review the job posting and consider submitting an application.

## *TREC Employee Updates*



**Bruce Wooley**

*Agency TOP Performer*

Bruce is the chief investigator for the Texas Real Estate Commission. He is a consummate professional in everything that he does. His institutional knowledge, and professional leadership of the TREC Enforcement Investigative team are invaluable. Bruce has been with the agency over two decades and is one of the best investigators the agency has had. When faced with a problem, Bruce is always willing to go above and beyond to make sure his team is solving them.

This is a well deserved honor for a great leader. Thank you for all that you do! Congratulations Bruce Wooley!



**Phil Green**

*Information and Technology Services*

Mr. Green worked for the state of Colorado for over 27 years at various departments in various roles including computer operator at Colorado Bureau of Investigations to the network and security manager for the state's Executive Branch. He has managed people, processes and projects to their completion and implemented the state's first Voice over IP for the Department of Natural Resources statewide saving money for Toll calling and other telecommunications costs. Mr. Green lives in Round Rock with his wife of 35 years. He has two children 33 and 31, two dogs and is NRA Marksman and reloader. He loves riding his motorcycle on trips with his wife.