

# TREC Advisor

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



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## NEW CONSUMER NOTICE REQUIREMENTS EFFECTIVE FEBRUARY 1, 2016

Statutory changes made during the last legislative session authorized TREC to amend the consumer notice requirements for real estate license holders to provide greater clarity and enhanced consumer protection. The Commission adopted amendments to requirements for both the Consumer Information Form and the Information About Brokerage Services Form, (more commonly known as the IABS) at its November 2015 meeting. These changes are effective February 1, 2016.

### CHANGES TO THE CONSUMER INFORMATION FORM

Brokers are currently required by law to display the [Consumer Information Form](#) in a prominent location in each place of business maintained by the broker, to inform consumers of their ability to file a complaint with TREC and the availability of the real estate recovery fund. Effective February 1, 2016, license holders will also be required to include a link to that form on the homepage of their business website. The link must be in at least 10 point font, a **readily noticeable** place on the home page and must be labeled "Texas Real Estate Commission Consumer Protection Notice."

### CHANGES TO THE IABS

A new mandatory form was adopted ([TREC No. IABS 1-0](#)). The new form is organized to be easier to read and understand. Additionally, the new form requires the sales agent or broker to fill in relevant contact information before providing the form.

**NOTE:** This contact information is required to be filled in at all times. It is a violation to provide a blank IABS without the contact information.

License holders must provide a link to the IABS form in a readily noticeable place on the homepage of their business website, in at least 10 point font and labeled "Texas Real Estate Commission Information About Brokerage Services". A sales agent or broker must also provide the form at the first substantive communication with a prospective client by one of following four methods: (1) by personal delivery; (2) by first class mail or overnight common carrier delivery service; (3) in the body of an email; or (4) as an attachment to an email, or a link within the body of an email, with a specific reference to the IABS Form in the body of the email.

**NOTE:** you are not allowed to include a link to the IABS in the signature line or footnote of an email.

## From the Executive Director...

As each new year begins, many of us make resolutions to find new ways to better our lives. While we may be generally happy with the overall direction we are headed, we often are not satisfied with some particular area of our lives that we know we can improve. It may be a recent development, or more often, something that has bothered us for a long time and that we have attempted unsuccessfully to address or change in the past. A new year just seems like the right time to take a fresh look at these issues and make a new effort to improve them.

At the agency, we feel obliged to engage in the same process. Each odd-numbered year is focused on working with the state legislature as it convenes in session to set big strategic priorities for Texas and also to address current issues and concerns. But in even-numbered years, our efforts are focused on engaging the people of Texas and our other stakeholders in a conversation about how we can better serve them. We do this by going through a structured strategic planning process with a 5 year horizon that we review and update every 2 years. 2016 is such a year.

The senior staff leadership team met in January to start this process. We always look at our internal procedures after reviewing the results of customer service and employee surveys. We want to be efficient and effective; and keeping high quality team members can be a challenge in Austin. But our principal objective for this plan is to look externally – just how well are we serving the people of Texas? What do we do that needs more attention? Are there areas of the real estate market where Texans are not being protected

from unscrupulous parties; and is there anything we can do about it? We will need your help to answer all of these questions – and we'll try to make it easy for you to do so.

We are working on the open survey questions and once finalized they will be put on our website for you to respond to. We will also be visiting at 5 or 6 locations around the state to meet with you in person. That listening tour schedule will be published once it is set and we look forward to seeing you at one of them.

We're busy preparing for the next regular quarterly Commission meeting on Monday February 8th. This date is during the TAR Winter Meeting so we hope that those who are in town for that event might make some time to stop in and see the Commission in action. We have two new Commissioners – Bob Leonard and Rayito Stephens - who will begin their service with this meeting. And starting this year, license holders can earn up to four hours of CE for attendance at a February meeting of the Commission.

So, get ready to contribute; 2016 will be a great year for you to help us make a difference in Texas. We anticipate continuing to improve our productive relationship with our license holders and our other key stakeholders as we advance the cause of serving the legitimate needs of Texans.



Douglas E. Oldmixon

## Are You Being Helpful or Harmful? Tips for Avoiding Disciplinary Action

"The pathway to TREC disciplinary action is sometimes paved with good intentions." (*Standards & Enforcement Services division staff attorney.*) "I had good intentions," however, is not a defense to a violation.

### Your Helpful Personality May Not Always Help

Many individuals who work in real estate brokerage have friendly personalities and like to "help" people. A sales agent or broker may do something in a transaction that is inappropriate not because they want to do wrong but because they believe a client expects it, has requested it, or will be pleased.

The Commission hears about these situations when someone files a complaint against the license holder. For example:

- A busy client might ask an agent to "please go ahead and sign my name to that amendment." That should not be done unless the agent has a valid power of attorney from the client.
- An energetic agent might have extra time before a showing appointment and decide to "tidy up" the residence by doing dishes and making beds before prospective buyers arrive. The occupant of the property may be offended and file a complaint. Yes, this happens.

### Beware – the Out-of-Town Client

A broker might have a listing where the owner lives out of the area. The owner might ask the listing agent or broker to do or arrange certain things for the property without the broker having a written property management agreement with the owner. If a service does not turn out well or a service provider is not paid, the license holder may be in an uncomfortable position, especially if the agent

did not have written authority to take action on behalf of the owner. A complaint might be filed.

### Friends and Family? The Rules Still Apply. Be Careful.

A license holder may sometimes take a "short cut" when working with a family member or friend. This is risky. The license holder should not assume that the friend or relative understands real estate brokerage. An Information About Brokerage Services form should still be provided at the time of the first substantive communication, all paperwork should still be prepared carefully, no "under the table" rebates should be given or promised, and the importance of a professional property inspection, other property issues, and possible amendments during the option period should still be discussed and acted upon.

### Is the Owner "Competent" to Make Decisions?

The listing or sale of property for an owner who might not be competent to provide informed consent should be done with extreme caution. For example, the owner might be elderly and suffering from diagnosed dementia. In such a situation, the license holder should perhaps require that the owner's attorney or someone with a power of attorney from the owner review the documents and provide necessary signatures on behalf of the owner. Responding to a complaint or lawsuit filed by a suspicious relative after the sale can be an unpleasant, expensive, and time-consuming experience.

Being well-educated on these issues and using good judgment in your real estate brokerage activities can allow you to continue to be the "helpful" agent or broker that you want to be while still limiting the possibility of disciplinary action.

## Agents and Brokers, Manage Your Sponsorships Online

Effective January 1, 2016, after a license number has been issued a sales agent requesting active status for the first time can go online and use the Relationship Management Tool (RMT) and pay the fee to secure their first sponsoring broker.

Brokers, please encourage new sales agents to use the RMT to request sponsorship online in real time. Make sure they verify the correct license number for their sponsoring broker PRIOR to submitting the online request. Immediately

following submission of the request, an email will be sent to the requested party. Sponsorship is effective when the broker accepts the sponsorship request. Using the RMT saves time and enables new sales agents to begin work much sooner!

Agents and brokers still have the option to submit the completed sponsorship form (SF1-3) and fee by mail, although this process may take up to 7 business days to process.

## Reminder to TREC-Approved Instructors of Qualifying and CE Non-Elective Courses

As of January 1, 2016, new and current instructors who are approved to teach Qualifying and CE Non-Elective courses are required to attend an 8-hour adult education instructor training course before filing an application or seeking re-approval. Recall that instructors who show proof of current CREI, DREI, or CDEI designations or who have completed the ITI program within 4 years prior to approval or re-approval will also satisfy this requirement. If

your current instructor approval is due to expire or if you're planning to file an instructor application for the first time and need to complete the training, a list of providers who are offering an approved 8-hour adult education instructor training course can be found at the TREC website.

## Education Provider Exam Passage Rates for Sales Agents, Brokers, and Inspectors

The education provider exam passage rates are now determined based on where the student took the majority of their course hours instead of the provider of the last course they completed. An updated chart for sales agents and brokers and one for inspectors is now displayed on the TREC website. The new charts are calculated on a monthly basis and provide the overall average first-time passage rate for all students who have taken the licensing exam to become a broker, sales agent, or real estate inspector in the past two years. Providers are ranked as being "In Good Standing";

"Subject to Probation"; or "Subject to Revocation." A provider's ranking will be examined at the time the provider submits a subsequent application for approval. If a provider is placed on probation, its passage rate will be reviewed annually at the time the annual operating fee is due to determine if it can be removed from probation, should remain on probation or have its license revoked. For a full description of this rule, please reference Section 535.61(k) of the Rules of the Commission.

## Earn Continuing Education Credit By Attending February 8th Commission Meeting !

Recent rule amendments allow a license holder to earn up to 4 hours of CE elective credit for attending a February meeting of the Commission once during each renewal period. License holders are invited to attend the Commission meeting in Austin on February 8th at 10:00 a.m. to see how the Commission considers and adopts rules, hears disciplinary matters, approves recovery fund payments, receives reports from the advisory committees and hears from stakeholders and the public on non-agenda items.

The February 8th Commission meeting agenda and meeting materials will be available on the TREC website approximately one week before the date of the meeting. Make sure you bring a government issued and photo-bearing picture ID with a signature. Identification must be in English. You must sign a roster upon entering and leaving

and will be required to remain for the entire meeting or at least 4 hours, whichever is less, to receive CE elective credit. Credit will not be awarded for the time the Commission spends in executive session. Course credit will be posted within 48 hours of the Commission meeting. CE credit will not be awarded for viewing the meeting on video. The meeting is held at:

Texas Real Estate Commission  
Room 170, Stephen F. Austin Bldg.  
1700 N. Congress Ave.  
Austin, TX

Check in at the front desk outside of Room 170 at least 15 minutes before the meeting to sign in. If you have additional questions, please contact us at 512-936-3000.



## Agency TOP Performer Announced



**Jennifer Wheeler**

*Education and Licensing Services*

Congratulations to Jennifer Wheeler! Jennifer has been named TOP Performer for this quarter. Jennifer goes above and beyond her normal duties in preparing herself and staff for upcoming changes in education standards in rules, procedures and forms and in coordinating and reviewing the much greater than normal submission of courses for approval prior to the year end. Jennifer does all of this with a positive and professional attitude. Jennifer's professionalism and dedication to her work and to making her team better are evidenced by how much she was able to successfully accomplish during the last quarter of 2015.

## TREC Enforcement Actions

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

## Proposed Rules For the Feb 8th Commission Meeting

The following amendments or new rules were proposed at the November 2, 2015, meeting of the Commission and are up for adoption at the February 8, 2016 meeting. You can see the full text of these rules on the "Proposed Rules" section of the TREC Website.

**§535.210, Fees (regarding inspectors)**. The proposed amendments align the rule with statutory changes to Chapter 1101, Texas Occupations Code, adopted by the 84<sup>th</sup> Legislature, and rule changes to the education course delivery standards. A charge for providing certified copies of documents was also added.

### IMPORTANT DATES TO REMEMBER

TREC Commission Meeting—February 8

ESAC Committee Meeting—April 18

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

## TREC Employee Update



**Leslie Barlow**

*Reception and Communication Services*

Leslie joined TREC after working with the Texas Department of Insurance. Has state employment history also includes challenging yet rewarding positions with both the Teachers Retirement System of Texas and the Texas Comptroller of Public Accounts. He is looking forward to working with this agency as well. On a lighter note, he thinks Austin is wonderful and embraces its experience, all with his wonderful daughter in tow.



**Novi Campbell** *TALCB Standards and Enforcement Services*

Novi was born and raised in Indonesia. She came to the US in 1997 to pursue her graduate degree at Southern Illinois University. She has worked both at private sector and the state. She also had a privilege to stay at home to raise my children for a few years before deciding to get a Paralegal Certificate from the University of Texas. She and her husband are very busy parents of two growing boys. Novi's spare time is spent taking them to music lessons, football and basketball practices and games.



**Cynita Woolen**

*Staff and Support Services*

Cynita is from Huntsville, AL. She received a Bachelor of Science in Information Systems Technology and Master of Science in Workforce Training and Development from Southern Illinois University. Ms. Woolen has a background in Computer Technology and in the educational arena in various capacities. As an Educator, she spent several years of her career at Alabama A & M University in Huntsville, AL assisting students in their quest for academic success. Ms. Woolen also assisted our future leaders and soldiers while working at The Citadel. She enjoys reading, traveling, and the outdoor activities. Cynita is a dedicated professional who volunteers many hours assisting the future leaders of America and abroad. She is new to the Austin area and excited about new opportunities. Her future goals include obtaining a PhD and growth within the Human Resource arena.