

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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New Survey Announced for Licensed Texas Real Estate Service Providers

The Texas Real Estate Commission is pleased to announce the launch of a survey of license holders. In cooperation with the Texas A&M Real Estate Center, and hosted by the University of Houston, this important survey will offer the Commission insights into the status and needs of the agency's license holders. Going forward, the survey is scheduled to be updated every four years.

While the agency's laws and rules set requirements for obtaining and renewing each type of license, the agency needs to better understand who our license holders are and how they view their work environment, daily business, and professional practices. A survey of this type has not been conducted in over a decade. During that time, significant changes have directly affected developments in the real estate industry. The agency seeks to gather more information and gain additional perspective as it strives to improve customer service, increase license holder expertise, and enhance consumer protection.

The agency is charged to oversee the providers of real estate brokerage, appraisal, inspection, home warranty, timeshare and right-of-way services in Texas. The agency's mission is to protect the consumers of real estate services in Texas. We do this by upholding high standards in education, licensing, and regulation to ensure that the providers these services are both qualified and ethical, thereby safeguarding the public interest while also facilitating economic growth and opportunity across Texas. TREC can best accomplish this mission with collaboration from all of our license holders, and your cooperation with this survey is an important step in strengthening this collaboration.

[The survey link is now live on the TREC website.](#)

The survey is anonymous and will be available for about 30 days. The survey will take just 10 minutes to complete. TREC appreciates you making time to participate and looks forward to the insights our license holders will provide.

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, you can read [the August report here.](#)



Douglas E. Oldmixon

From the Executive Director ...

As we prepare for our next meeting of the Commission on Monday Nov 14, I found myself reflecting on how far we as an agency and a profession have come in the last seven years and pondering some of the major challenges that still lay ahead. Let me mention just a

few examples in each category.

The highlights of our path to address regulatory weaknesses and restore professionalism include: adding recent relevant experience as a criterion for obtaining a broker license, making a course in Broker Responsibility a CE requirement for sponsoring or supervising other license holders; chartering the Education Standards Advisory Committee to upgrade our educational curriculum; adding SFR rental management as an activity that requires a license, updating the IABS form and Consumer Disclosure to be more easily understood and more widely accessible by posting on business websites, and requiring both subject matter and adult education competence for instructors of qualifying and non-elective CE courses. Each of these accomplishments advanced or restored a level of attainment that better protects the clients of our license holders and enhanced our own self-respect as licensed professional advisors on real estate brokerage issues. We appreciate the collaborative role all of our stakeholders played in assisting us to

make each of these accomplishments a workable reality. We are grateful to all of you.

What market developments or challenges remains to be addressed that will further advance the protection of Texans participating in the real estate market, and enhance the professional competence and reputation of license holders? Certainly clarifying the advertising requirements to ensure Texans are fully aware when solicitations are made by license holders on behalf of a client and not made by an owner or principal is a worthy goal. In addition, we have had many requests to ensure licensed professionals are adequately trained and knowledgeable when offering more complex services to consumers – like property management, commercial/investment brokerage, and similar specialized services. This is another worthy endeavor that will enhance our professional standing. And of course it is part of our duty to address services offered by technological means to ensure the method of delivery is consistent with and does not undermine or diminish the fiduciary duties owed to our clients.

As the Commission continues to respond to the challenges offered by technology and other market developments, we pledge to continue our practice of closely consulting with all of our stakeholders to ensure we remain proactive, transparent, and balanced. We encourage your continued involvement.

Just a reminder to please [complete the open survey of agency license holders](#) so that we can better understand your characteristics and needs. Thank you!

IMPORTANT DATES TO REMEMBER

TREC Commission Meeting—November 14

Thanksgiving Holiday – Office Closed—November 24-25

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

TRUST ACCOUNTS 101

What is trust money?

Client's money, earnest money, rent, unearned fees, security deposits, or any money held on behalf of another person. Trust money is held in a fiduciary capacity.

What is a trust account?

An account managed by one party for the benefit of another (in a banking institution authorized to do business in Texas).

What should a broker do when the broker receives trust money?

Unless otherwise agreed IN WRITING by the principals to a transaction, a broker must deposit the money into a trust account or deliver to an authorized escrow agent

When must the trust money be deposited or delivered?

No later than the close of business of the second working day after the date received.

Who can maintain a trust account?

Only a broker. The rules specifically prohibit a sales agent from maintaining a trust account.

What should a sales agent do when the sales agent receives trust money?

Deliver the trust money to the sales agent's sponsoring broker immediately. (Rent money collected, security deposits, application deposits...)

What if a broker's sponsored sales agent doesn't follow the rules regarding trust money? Is the broker liable?

Maybe. A broker's policies and procedures for sponsored sales agents are required to ensure that funds received from consumers are maintained with appropriate controls in compliance with trust account rules.

Can't I just deposit trust money with my business and personal accounts?


No. Depositing or maintaining trust money in a personal account or any kind of business account is specifically prohibited. This also violates the Texas Real Estate License Act because this commingles money that belongs to another person with the license holder's own money.

What are the requirements for trust accounts?

- Clearly identify the account as a trust account.
- Deposit enough money to cover bank and service fees and keep detailed records of that money.
- Maintain a documentary record of each deposit or

withdrawal.

- Provide an accounting to each beneficiary at least monthly IF there is any activity in the account.
- May authorize another license holder to withdraw or transfer money BUT the broker remains responsible and accountable for all trust money received by that broker and all deposits to or disbursements from the trust account.
- If a check is deposited and is dishonored, the broker must immediately notify all parties to the transaction in writing.
- If a broker is owed money from a trust account, the broker must remove the money no later than the 30th day after acquiring ownership. (For example: property management fees; reimbursement for repair expenses.)
- See also special requirements for interest bearing trust accounts.



Find all the rules
about Trust
Accounts in TREC
Rule §535.146

How long must a broker maintain trust account records?

Maintain all documentation for four years from the date the document is received or created.

This seem familiar? It's how long brokers are required to keep other records under the Broker Responsibility rules.

What about paying money out of a trust account? As long as I keep track of the checkbook, I should be okay, right?

Disburse money according to the agreement under which the money was received. (Examples: property management or escrow agreements.) When a party to a real estate transaction makes written demand for payment of trust money, pay the trust money within 30 days after demand and give immediate written notice to all the parties to the transaction.

What if I can't tell who is entitled to the trust money?

There are procedures you must follow, but you must respond to the demand within 30 days. Also, the Texas Real Estate License Act requires a license holder to properly account for or remit money that is received by the license holder and belongs to another person.

Rule Proposals from the August Commission Meeting

The following amendments were proposed at the August 15, 2016, meeting of the Commission and are up for adoption at the November 14, 2016, meeting. You can see the full text of these rules on the “Proposed Rules” section of the TREC Website. The deadline to submit written comments on proposed rules has passed. All comments will need to be made in person at the meeting.

§534.2, Processing Fees for Dishonored Payments. The amendments are proposed 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 proposed 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.

§§535.4, License Required, and 535.5, License Not 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 only circumstances under which an unlicensed assistant can show or an unescorted person can be provided access to a vacant property. 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 proposed 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 proposed 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).

§535.62, Approval of Qualifying Courses. The amendments are proposed 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 proposed amendments remove the requirement for education completion certificates to include the registration date since that information not necessary for the Commission to calculate compliance with statutory timeframes for course completion.

§535.72, Approval of Non-elective Continuing Education Courses. The amendments are proposed to clarify that classroom students must take the promulgated final examination independently prior to the instructor reviewing the correct answers.

§535.73, Approval of Elective Continuing Education Courses. The amendments are proposed 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 proposed 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.

§535.218, Continuing Education Required for Renewal. The proposed amendments to §535.218 change the continuing education requirements for non-elective coursework to include a four-hour course developed by the Commission in conjunction with the Texas A&M University Real Estate Center. The proposed amendments would 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. The proposed amendments also make typographical corrections and conforming changes for consistency with other Commission rules.

§535.63, Approval of Instructors of Qualifying Courses. The proposed amendments to §535.63 conform this section with the proposed amendments to §535.218, Continuing Education Required for Renewal, for consistency.

§535.74, Approval of Continuing Education Instructors. The proposed amendments to §535.74 conform this section with the proposed amendments to §535.218, Continuing Education Required for Renewal, for consistency.

§§535.201, Definitions, and 535.212, Education and Experience Requirements for a License. The proposed amendments to §§535.201 and 535.212 conform those sections with the proposed amendments to §535.218, Continuing Education Required for Renewal, for consistency.

TOP Employee Announced



Sandy Zimmerman

TREC Standards and Enforcement Services

Congratulations to Sandy Zimmerman for being nominated by her peers as TOP Performer for this quarter! Sandy is an attorney who docketed a record nine cases at SOAH last quarter, resulting in 4 settlements, 4 hearings and 1 default order.

In addition, she handles a full case load, and serves as the DFW area team lead as well as PIA liaison for TREC SES. Way to go Sandy!

TREC Employee Update



John Heisler

TREC Standards and Enforcement Services

Originally from Houston, John began his career in private practice. Areas of private practice included Personal Injury (plaintiff and defense), Administrative Law (two state agencies), Contract, Maritime/Admiralty, Workers' Compensation, and Commercial Collections.

In 2007 John began working for the Texas Medical Board and in 2012 transferred to the Texas Department of Insurance-Division of Workers Compensation until October 12, 2016 when he began working for TREC.



Cole Flannery

TREC Standards and Enforcement Services

Cole Flannery joins TREC as an attorney in the SES Division. Most recently, Cole served as a remediation attorney with TCEQ. Before that, Cole was an attorney in the United States Army JAG Corps from 2012-2016. As a JAG, Cole served as a legal advisor in Afghanistan, chief legal counsel for a military intelligence and reconnaissance unit, and a lead criminal prosecutor. He is also a graduate of the US Army's Airborne School and Air Assault School. Today, Cole continues to serve as a JAG for the 71st Military Intelligence Brigade in the Texas Army National Guard. In his spare time, Cole enjoys spending time with his wife, daughter, and two dogs, and being outdoors as much as possible.



Nicole (Niki) Brown

Staff and Support Services

Niki joined TREC in October 2016 as an HR Generalist for Human Resources. Niki has over 17 years of human resources experience and has worked for the state for 22 years. She is the proud mother of two sons, ages 21 and 25. Her oldest son Donte Brown is an Airman First Class in the Air Force. Niki is currently working towards her Bachelor's degree in Human Resources Management.