



## **AGENDA FOR BROKER RESPONSIBILITY WORKING GROUP (BRWG)**

**Meeting location:**

**1700 N. Congress, Room 400a**

**Austin, Texas 78701**

**Wednesday, October 11, 2023, at 10:00 a.m.**

To participate by providing public comment during the meeting, contact [general.counsel@trec.texas.gov](mailto:general.counsel@trec.texas.gov) by 5:00 p.m. Tuesday, October 10, 2023, along with the agenda item number you wish to speak on.

In accordance with normal Commission practice, any meeting materials will be available on the TREC website before the meeting at the following URL: <https://www.trec.texas.gov/apps/meetings/>

1. Call to Order
2. Housekeeping
3. Public comment, including any written public comment received, on non-agenda items
4. Discussion regarding file retention for brokers and sales agents as defined in 22 TAC §535.2, Broker Responsibility
5. Discussion and possible action regarding broker associates
6. Discussion regarding the number of LLCs or sales agents a broker can sponsor or supervise
7. Discussion and possible action regarding future agenda items for consideration and meeting dates for the Broker Responsibility Advisory Committee
  - Suggested future meeting date: Wednesday, January 17, 2024
  - Alternate date: Thursday, January 18, 2024
8. Adjourn

*Pursuant to the Americans with Disabilities Act, any requests for reasonable accommodation needed by persons wishing to attend this meeting should call Amber Hinton at 512-936-3000.*

*Pursuant to Section [30.06](#), Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter [H](#), Chapter [411](#), Government Code (handgun licensing law), may not enter this property with a concealed handgun.*

*Pursuant to Section [30.07](#), Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter [H](#), Chapter [411](#), Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.*

# Texas Administrative Code

TITLE 22	EXAMINING BOARDS
PART 23	TEXAS REAL ESTATE COMMISSION
CHAPTER 535	GENERAL PROVISIONS
SUBCHAPTER B	GENERAL PROVISIONS RELATING TO THE REQUIREMENTS OF LICENSURE
RULE §535.2	Broker Responsibility

[Historical](#)[Texas Register](#)

(a) A broker is required to notify a sponsored sales agent in writing of the scope of the sales agent's authorized activities under the Act. Unless such scope is limited or revoked in writing, a broker is responsible for the authorized acts of the broker's sales agents, but the broker is not required to supervise the sales agents directly. If a broker permits a sponsored sales agent to conduct activities beyond the scope explicitly authorized by the broker, those are acts for which the broker is responsible.

(b) A broker owes the highest fiduciary obligation to the principal and is obliged to convey to the principal all information known to the agent which may affect the principal's decision unless prohibited by other law.

(c) A broker is responsible for the proper handling of trust funds placed with the broker and must comply with §535.146 of this chapter (relating to Maintaining Trust Money).

(d) A broker is responsible for any property management activity by the broker's sponsored sales agent that requires a real estate license.

(e) A broker may delegate to another license holder the responsibility to assist in administering compliance with the Act and Rules, but the broker may not relinquish overall responsibility for the supervision of license holders sponsored by the broker. Any license holder who leads, supervises, directs, or manages a team must be delegated as a supervisor. Any such delegation must be in writing. A broker shall provide the name of each delegated supervisor to the Commission on a form or through the online process approved by the Commission within 30 days of any such delegation that has lasted or is anticipated to last more than three consecutive months. The broker shall notify the Commission in the same manner within 30 days after the delegation of a supervisor has ended. In the event the delegated supervisor is a broker at the time of delegation or later becomes a broker, that broker may, in lieu of the sponsoring broker, notify the Commission in writing when the delegation ends.

(f) Listings and other agreements for real estate brokerage services must be solicited and accepted in a broker's name.

(g) A broker is responsible to ensure that a sponsored sales agent's advertising complies with §535.154 of this chapter (relating to Registration and Use of Alternate, Team and Assumed Business Names Used in Advertisements) and §535.155 of this chapter (relating to Advertisements).

(h) Except for records destroyed by an "Act of God" such as a natural disaster or fire not intentionally caused by the broker, the broker must, at a minimum, maintain the following records in a format that is readily available to the Commission for at least four years from the date of closing, termination of the contract, or end of a real estate transaction:

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- (1) disclosures;
  - (2) commission agreements such as listing agreements, buyer representation agreements, or other written agreements relied upon to claim compensation;
  - (3) substantive communications with parties to the transaction;
  - (4) offers, contracts, and related addenda;
  - (5) receipts and disbursements of compensation for services subject to the Act;
  - (6) property management contracts;
  - (7) appraisals, broker price opinions, and comparative market analyses; and
  - (8) sponsorship agreements between the broker and sponsored sales agents.
- (i) A broker who sponsors sales agents or is a designated broker for a business entity shall maintain, on a current basis, written policies and procedures to ensure that:
- (1) Each sponsored sales agent is advised of the scope of the sales agent's authorized activities subject to the Act and is competent to conduct such activities, including having competence in the geographic market area where the sales agent represents clients.
  - (2) Each sponsored sales agent maintains their license in active status at all times while they are engaging in activities subject to the Act.
  - (3) Any and all compensation paid to a sponsored sales agent for acts or services subject to the Act is paid by, through, or with the written consent of the sponsoring broker.
  - (4) Each sponsored sales agent is provided on a timely basis, before the effective date of the change, notice of any change to the Act, Commission rules, or Commission promulgated contract forms.
  - (5) In addition to completing statutory minimum continuing education requirements, each sponsored sales agent receives such additional educational instruction the broker may deem necessary to obtain and maintain, on a current basis, competency in the scope of the sponsored sales agent's practice subject to the Act. At a minimum, when a sales agent performs a type of real estate brokerage activity for the first three times, the broker must require that the sales agent receive coaching and assistance from an experienced license holder competent for that activity.
  - (6) Each sponsored sales agent complies with the Commission's advertising rules.
  - (7) All trust accounts, including but not limited to property management trust accounts, and other funds received from consumers are maintained by the broker with appropriate controls in compliance with §535.146 of this chapter.
  - (8) Records are properly maintained pursuant to subsection (h) of this section.
- (j) In addition to the requirements of §535.157 of this chapter (relating to Obligation to Respond Timely), a broker or supervisor delegated under subsection (e) of this section must respond to sponsored sales agents within two calendar days.
- (k) A sponsoring broker or supervisor delegated under subsection (e) of this section shall deliver mail and

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other correspondence from the Commission to their sponsored sales agents within three calendar days after receipt.

(l) When the broker is a business entity, the designated broker is the person responsible for the broker responsibilities under this section.

(m) This section is not meant to create or require an employer/employee relationship between a broker and a sponsored sales agent.

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**Source Note:** The provisions of this §535.2 adopted to be effective January 1, 1976; amended to be effective April 14, 1998, 23 TexReg 3681; amended to be effective July 1, 1999, 24 TexReg 4822; amended to be effective November 26, 2002, 27 TexReg 10920; amended to be effective May 18, 2003, 28 TexReg 3951; amended to be effective January 1, 2011, 35 TexReg 11674; amended to be effective November 29, 2012, 37 TexReg 9364; amended to be effective January 1, 2015, 39 TexReg 9669; amended to be effective May 26, 2015, 40 TexReg 2756; amended to be effective December 7, 2016, 41 TexReg 9519; amended to be effective December 9, 2018, 43 TexReg 7896; amended to be effective June 11, 2023, 48 TexReg 2951