INTRODUCTION

The basic law of the State of Texas is set out in the Constitution of the State of Texas. The Texas Constitution is the supreme law of Texas and establishes the fundamental legal rights of its citizens. The Texas Legislature enacts statutes affecting the entire state, and city councils pass local laws (ordinances) affecting the residents of the city. **Statutory law** is written law enacted by state (or federal) legislative bodies. Most state laws establish broad goals, but not the methods needed to carry out the goals. Therefore, the state laws are implemented by regulations promulgated by various state and local agencies. A **regulation** is a rule issued by an administrative agency to enforce or amplify a statute. Regulations created by agencies carry the force of law. Most of the regulations issued by Texas state agencies are compiled in the Texas Administrative Code (TAC).

Example: The Real Estate License Act is a statute that is administered and enforced by the Texas Real Estate Commission (TREC), which is a state agency. The regulations that TREC enacts are found in the Texas Administrative Code.

As a licensee in Texas, you are regulated by TREC. The following discussion of TRELA and TREC serves as the foundation for your career as a real estate agent.
Learning Objectives

After completing this Unit, you should be able to:

2A recall the basic provisions and the purpose of The Real Estate License Act.
2B recognize the Subchapters of The Real Estate License Act and their provisions.

TRELA – BASIC PROVISIONS

In 1939, the state of Texas passed the Real Estate Dealer’s License Act (the precursor to The Real Estate License Act), which provided the first credible real estate brokerage law in Texas. The act’s name was changed to The Texas Real Estate License Act (TRELA) in 1955. The Real Estate License Act was re-codified in 2003 as Title 7, Chapter 1101 of the Texas Occupations Code. It must be viewed separately from what is known as real property law, law of agency, contract law, or other legal aspects of real estate ownership and transfer.

TRELA is the law governing Texas real estate license holders and is enforced by TREC (Texas Real Estate Commission). TRELA was enacted with the purpose of eliminating or reducing fraud against the public by “unlicensed, unscrupulous, or unqualified persons” involved in real estate transactions.

Examinations for licensees were instituted in 1955. Prior to that, a person could obtain a broker’s license by paying $5.00 and getting letters of recommendation from the local justice of the peace and the county sheriff!

Review – Purpose of The Real Estate License Act

• Protect consumers from loss because of dishonest and incompetent agents
• Set minimum standards and qualifications for licensing a real estate broker or sales agent
• Monitor the conduct of real estate brokers and sales agents
• Protect the good standing of ethical agents from the adverse publicity caused by unprincipled licensees
Consumers entrust real estate brokers and sales agents with their money and property. To place their trust in a broker or sales agent, they must have a great deal of confidence in the real estate industry. With that in mind, the state places strict licensing requirements on those who wish to practice real estate.

Any person who wants to engage in the real estate business and act as a real estate broker or real estate sales agent within the state of Texas must obtain a license from the Texas Real Estate Commission (TREC). The two main types of real estate licenses are the broker’s license and the sales agent’s license.

**TEXAS OCCUPATIONS CODE, CHAPTER 1101 – REAL ESTATE BROKERS AND SALES AGENTS**

The Real Estate License Act is found in the Texas Occupations Code, Chapter 1101. It is comprised of 17 Subchapters—A through Q.

**Subchapter A - The Real Estate License Act**

The Real Estate License Act, sometimes referred to as the license law, serves to protect the public in real estate transactions involving a licensee. The term “license law” refers to the law that affects the licensing and conduct of real estate brokers and their sales associates.

**Definitions**

**Real Estate Broker**

A real estate broker is someone who holds a broker license issued by the Texas Real Estate Commission. The license legally permits the broker to perform any acts for which a real estate license is required in exchange for a commission or other valuable consideration. [§1101.002(1)].

A real estate broker is also an independent businessperson who can sponsor someone who holds a sales agent or a broker license. Brokers are legally responsible for all the business actions of their sponsored sales associates.


**Real Estate Sales Agent**

A real estate sales agent is someone who holds a sales agent license issued by the Texas Real Estate Commission. The sales agent must be sponsored by a real estate broker in order to perform any of the activities that require a license.

**License Holder**

A license holder means a broker or sales agent licensed under T RELA.

**Real Estate Sales Associate**

Real estate sales associate is a term used to refer to the licensed sales agents and brokers sponsored by a broker. A sales associate who has a sales agent license must be sponsored by a broker. A person who has a broker license may operate independently or put his or her license with another broker. That person is known as a broker associate.

**Real Estate Agent**

Real estate license holders can be agents. A licensed broker is legally an agent of the principal (seller/buyer or landlord/tenant). A licensed sales agent is legally an agent of his or her sponsoring broker.

**Real Estate Brokerage**

A person is engaged in real estate brokerage if he or she performs, offers, or agrees to perform any of the acts that require a real estate license for another person with the expectation of receiving compensation.

However a person (including a real estate broker or sales agent) is not engaged in real estate brokerage if he or she is doing any of the following activities:

1. constructing, remodeling, or repairing a home or other building;
2. sponsoring, promoting, or managing, or otherwise participating as a principal, partner, or financial manager of, an investment in real estate; or
3. entering into an obligation to pay another person that is secured by an interest in real property. [§1101.004 (a-b)].
When is a License Required?

Under TREA, a person acts as a broker or sales agent if the person expects to receive compensation and directly or indirectly performs or offers, attempts, or agrees to perform any of the acts that require a real estate license.

Acts Requiring a Real Estate License

- Directing or supervising other persons who perform acts for which a license is required
- Offering or negotiating to sell, exchange, purchase, or lease real estate
- Offering or agreeing to list real estate for sale, lease, or exchange
- Showing a broker’s listings
- Providing a written Broker Price Opinion (BPO) or Comparative Market Analysis (CMA) relating to the estimated price of real property. The broker must state in the BPO or CMA that, “This is a broker price opinion or comparative market analysis and should not be considered an appraisal.” Remember, the actual appraisal of real estate requires licensure as an appraiser. A sales agent may prepare, sign, and present a BPO or CMA for the sales agent’s sponsoring broker, but the sales agent must submit the BPO or CMA in the broker’s name and the broker is responsible for it. [TAC §535.17].
- Offering or agreeing to auction real estate
- Buying, selling, or offering to buy or sell options on real estate. (Including a lease to purchase)
- Offering to locate or obtain real estate for purchase or lease
- Offering to find buyers or tenants for real property
- Unless exempt, managing real property or collecting rent on behalf of an owner of real property—even from a single-family residence
- Operating a rental agency
- Charging advance fees to list property in a real estate publication to refer information about the real estate to brokers. An advance fee is considered a contingent fee if the fee must be returned or if the property is not sold, purchased, rented, or leased.
- Advising an owner concerning the negotiation of a short sale
Practicing real estate without an active license is a criminal offense, specifically, a Class A misdemeanor. [§1101.756]. TREC can also pursue administrative penalties not to exceed $5,000 for each violation. Each day a violation continues can be considered a separate violation for imposition of the administrative penalties. TREC may also issue a “cease and desist” order or obtain injunctive relief, including court costs and attorney's fees incurred in obtaining such relief. [§§1101.751, 1101.759]

It is unlawful for any unlicensed person to pose as a real estate broker or sales agent, or to advertise that he or she is a real estate broker. If the Texas Real Estate Commission receives information that indicates that a person has engaged in unlicensed activity, it investigates the accuracy of the information. If the information is true, the Commission may impose an administrative penalty; issue an order to cease and desist; or file a complaint alleging unlicensed activity with the appropriate law enforcement official.

Unlicensed Assistants

Hiring unlicensed assistants has become very popular in recent years. However, great care must be taken to ensure that an unlicensed assistant does not conduct any of the activities for which a real estate license is required. The Real Estate License Act establishes that it is a crime for an unlicensed person to engage in activity for which a real estate license is required. The broker or sales agent that employs an unlicensed person might be criminally charged for the crime as well. In addition, the broker or sales agent that pays an unlicensed individual is subject to TREC penalties and fines. [§§1101.351(a), 1101.758].

A basic rule-of-thumb is that unlicensed assistants can assist in an administrative role but cannot perform activities for which a license is required such as showing properties, having listing agreements signed, making marketing calls, etc.

When is a License Not Required?

Certain exemptions from licensing requirements are allowed. [§1101.005 & §535.5]. According to TRELA, the following list shows the people who are exempt from obtaining a real estate license.
Real Estate License Exemptions

(1) An attorney licensed in Texas (It is a violation of TREL to share a commission with an attorney unless the attorney possesses a real estate license.)

(2) An attorney-in-fact authorized under a power of attorney to conduct a real estate transaction

(3) A public official while engaged in official duties

(4) A licensed auctioneer while conducting the sale of real estate by auction if the auctioneer does not perform another act of a broker or sales agent

(5) A person conducting a real estate transaction under a court order or the authority of a will or written trust instrument

(6) A person employed by an owner in the sale of structures and land on which structures are located if the structures are erected by the owner in the course of the owner’s business

(7) An on-site manager of an apartment complex

(8) An owner or the owner’s employee who leases the owner's improved or unimproved real estate

(9) A transaction involving
   • the sale, lease, or transfer of a mineral or mining interest in real property
   • the sale, lease, or transfer of a cemetery lot
   • the lease or management of a hotel or motel
   • the sale of real property under a power of sale conferred by a deed of trust or other contract lien

The Sunset Act

The Texas Real Estate Commission is subject to periodic review by the Sunset Commission as required by the Sunset Act. The Sunset Commission, comprised of legislators and public members, evaluates state agencies to determine if the agency is still needed, and what improvements may be needed to ensure that state funds are well spent. Based on the recommendations of the Sunset Commission, the Texas Legislature ultimately decides whether an agency continues to operate into the future. The Sunset Commission has a meeting to hear public comments regarding ways to improve the state agency under review. Through the Sunset review process, every Texan has the opportunity to make suggestions to improve how their state agencies operate.
Subchapters B-E – The Commission

Prior to the creation of the Texas Real Estate Commission, Texas real estate agents were licensed through the office of the Texas Secretary of State. However, the Texas Real Estate Commission (TREC or the Commission) took over the licensing responsibility when it was created in 1949. It was not until 1955 that brokers were required to pass examinations for licensure.

Subchapter B - Texas Real Estate Commission

The Texas Real Estate Commission enforces the provisions of TRELA and determines administrative policy. TREC protects the public by regulating real estate brokers and sales agents, real estate inspectors, real estate education providers, residential service companies, timeshare developers, and easement or right-of-way (ERW) agents.

There are several real estate-related businesses that are not regulated by TREC. They include real estate developers, home builders, homeowners associations, mortgage brokers, property tax consultants, title insurance companies, and auctioneers.

TREC issues (and withdraws) licenses and certificates of registration, implements continuing education requirements, sets standards for schools that offer real estate and inspector courses for credit, cooperates with other state licensing jurisdictions, and disseminates information and advice as a deterrent to violations of statutes and rules.

Commission Membership

The policy-making body of the Texas Real Estate Commission is a nine-member commission appointed by the governor with the advice and consent of the senate for overlapping six-year terms. Six members are licensed real estate brokers who have been actively engaged in the brokerage business for 5 years preceding their appointment. Three members represent the public and can have no real estate or TREC affiliation. The governor designates the Chairperson, who must be a licensed real estate broker; however, the Commission appoints the Executive Director to oversee the agency.

A person may not be a member of the Commission if the person (or spouse) is an officer, employee, or paid consultant of a Texas trade association in the real estate industry. A person does not begin official member duties, such as deliberating and voting until he or she has completed a TREC-approved training program.
A member may be removed if the person is found to be unqualified, has missed more than 50% of the regularly scheduled Commission meetings, or if the Executive Director knows that there is a potential ground for removal. If a vacancy occurs during a member’s term, the governor appoints a person to fill the unexpired term.

Commission members are non-salaried but they do receive $75 for each day that they are performing Commission duties along with reimbursement for actual expenses. [§1101.051-.059].

**Recovery Funds**

The Commission administers two recovery funds that provide funds to individuals who have had difficulties with real estate transactions caused by unethical and illegal dealings of licensees.

The *Real Estate Recovery Fund* handles claims against sales agents, brokers, and easement agents. The fund was created in 1975 to replace surety bond requirements of real estate licensees.

The *Real Estate Inspector Recovery Fund*, which was created in 1985, handles claims against inspectors. A five-person Investment Committee composed of TREC commission members and staff recommends investment strategies for the recovery funds to the full commission.

**Administrative Support to TALCB**

The Real Estate Commission provides administrative support (staff services, information services, and utilities) for the Texas Appraiser Licensing and Certification Board (TALCB) under a memorandum of understanding between TALCB and TREC.

**Subchapter C - Organizational Structure of TREC**

The Real Estate Commission is composed of seven divisions to help implement The Real Estate License Act and other statutory rules and regulations. Each commission member, officer, and employee is expected to follow the Texas Code of Ethics and Standards of Conduct for government employees as found in Section 572.051.
Administration & Management Services Division

The Administration & Management Services (AMS) Division has five staff members, including the TREC Executive Director. The other staff members are the General Counsels, government relations specialist, public affairs specialist, and an executive assistant.

In addition to leadership and day-to-day management, the AMS Division performs several key roles to advance the education, licensing, and industry regulation programs. These include providing supervision of staff responsible for carrying out the agency's functions, drafting of proposed rules and legislation, oversight of the recovery funds, coordinating and providing staff support to advisory committees, and ensuring the performance of all statutory requirements.

TRELA requires the Commission to prepare information regarding the functions of the Commission and to make that information available to the public and appropriate state agencies. One way TREC accomplishes this goal is by publishing the TREC Advisor/TALCB Bulletin. Additionally, the AMS Division works with consumer groups, industry trade associations, other Texas agencies, educators and regulatory agencies of other jurisdictions.

Legal advice to the Commission is provided by the General Counsel, who also reviews and responds to claims by consumers for payment of judgments against sales agents and brokers from the statutory recovery fund.

Education & Licensing Services Division

The Education & Licensing Services (ELS) Division ensures that the education, experience, examination, and license application requirements are satisfied before a license or certificate of registration is issued to real estate brokers or sales agents, appraisers, inspectors, and easement or right-of-way registrants. The ELS Division has two sections—education and licensing.

Education Section

The Education Section determines that education and experience requirements are satisfied for the various license types. The Education Section is responsible for the review and accreditation of proprietary schools that provide qualifying education, approval of Continuing Education (CE) providers, and approval of course instructors. It also reviews and approves qualifying and CE courses.

The Education Section makes sure that qualifying exams are administered without problems and that results are posted accurately to the agency's database system.
**Licensing Section**
The **Licensing Section** reviews and processes applications, renewals, information changes, and histories for real estate sales agents and brokers; apprentice, real estate, and professional inspectors; and easement or right-of-way agents.

This section is responsible for ensuring that applications and renewals contain all required information, assist walk-in customers, and proof license documents before release.

**TREC Standards & Enforcement Services Division**
TRELA requires the Commission to establish a process for consumers to file complaints regarding licensees. These complaints are reviewed by the **TREC Standards & Enforcement Services Division** (SES). The SES Division enforces The Real Estate License Act and other statutes administered by TREC, such as the Rules of the Commission, Chapter 1102 of the Texas Occupations Code regarding Real Estate Inspectors, the Texas Timeshare Act, and the Residential Service Company Act.

The SES Division also reviews applications to determine the honesty, trustworthiness, and integrity of applicants and oversees the sanction of licensees who have violated various legal requirements.

TREC SES handles a high volume of signed written complaints from the public and licensees concerning alleged violations. Although most complaints relate to the purchase, lease or inspection of a home, they may also include charges ranging from misleading advertising to unlicensed activity. If it is determined that the complaint is valid, the licensee is notified and given an opportunity to respond, and the complaint is investigated. If the evidence indicates that a violation occurred, an attempt is made to resolve the complaint through alternative dispute resolution (ADR) methods, such as informal settlement discussions or mediation. However, when ADR is not effective or appropriate, TREC SES makes use of the full range of disciplinary remedies authorized by The Real Estate License Act and a hearing may be set at the State Office of Administrative Hearings.

**Reception & Communication Services Division**
The Reception & Communications Services (RCS) Division is the agency's customer service department and is the primary point of contact for all telephone, email, and walk-in inquiries. Additionally, RCS handles all website customer survey responses for the agency.
The RCS Division staff answers all local lines from 7:00 a.m. to 6:00 p.m. on weekdays. The walk-in reception area is staffed weekdays from 8:00 a.m. to 5:00 p.m.

**Staff & Support Services Division**

The Staff & Support Services (SSS) Division performs all of the accounting, purchasing, mail and cash handling functions, human resources administration, and property management for the agency. The SSS division handles the day-to-day monetary and budget operations. The Director of SSS is the investment officer for the recovery funds.

The SSS Division has four sections—accounting, purchasing, cashier, and human resources. The Accounting Section provides services in the areas of accounting, payroll, revenue forecasting and tracking, and all budgeting functions. The Purchasing Section purchases goods and services in compliance with all state regulations, and provides equipment and facilities management services. The Cashier Section receives and distributes incoming mail and processes revenue received. The Human Resources Section plans, develops, reviews, and implements human resources policies, directives, and procedures while ensuring that state and federal guidelines are followed.

**Information & Technology Services Division**

The Information & Technology Services (ITS) Division develops and maintains the technical infrastructure that supports the agency’s business requirements.

The ITS Division provides agency-wide support by managing the technical infrastructure for application development, network management, application and technical support, website services, and records management. It is responsible for monitoring the software systems developed by TREC staff to increase productivity and decrease delays in answering public inquiries, including fee receipts, education evaluation, examination result posting, license and renewal processing, enforcement case tracking, open records access and education provider approval systems.
TALCB Standards & Enforcement Services Division

The TALCB Standards & Enforcement Services (TALCB SES) Division processes complaints about appraisers submitted by consumers, other state agencies, appraisers, financial institutions and federal regulators. The main function of the TALCB SES Division is to administer the Texas Appraiser Licensing and Certification Act and the rules of the Texas Appraiser Licensing and Certification Board (Board) in the interest of the public. It also ensures compliance with federal law under the direction of the Appraisal Subcommittee.

TALCB SES impartially investigates complaints and the Board imposes discipline as deemed necessary to ensure high standards of appraiser competence. Licensed or certified appraisers who violate the law are typically sanctioned with monetary fines, educational requirements, and, if warranted, suspension or revocation of their licenses. In addition, the division provides assistance to law enforcement and prosecutors upon request through the Texas Mortgage Fraud Task Force.

The division is also charged to conduct experience audits and review work product for compliance with the Uniform Standards of Professional Appraisal Practice (USPAP).

Subchapter D - Commission’s Powers and Duties

The Commission's primary obligation is to ensure the public's protection when dealing with licensees during the purchase or sale of real property.

Create and Enforce Regulations

The Commission has the power to create and enforce regulations that carry out The Real Estate License Act as well as bring forth actions in response to violations of the license law. The rules and regulations of TREC have the full force and effect of law. The Commission may establish standards of conduct and ethics that real estate licensees must follow.

Charge and Collect Fees

The Commission charges and collects reasonable fees to cover the costs of maintaining TREC and administering TRELA. It also can set and collect reasonable fees to cover the costs of implementing the continuing education requirements for license holders. The fees are collected from real estate licensees, real estate inspectors, proprietary schools, residential service companies, timeshare developers, and right-of-way agents. Miscellaneous fees include
fingerprint and background check fees, license history fees, moral character
determination fees, examination fees, and duplicate license fees. There is a one-
time Real Estate Recovery Fee paid with the first application for a license. The
Fee Schedule can be found on the Texas Real Estate Commission homepage at

Fund the Real Estate Center at Texas A&M University
The Real Estate Commission provides funds to the Real Estate Center at Texas
A&M University (Center) that was created to advance real estate education
and to improve relations between the public and the practitioners in the real
estate industry. A portion of the filing fees for original broker licenses and their
renewal is set aside for the Center.

Promulgate Contract Forms
The Texas Real Estate Commission (TREC) may adopt legislation that requires
real estate licensees to use promulgated (mandatory) contract forms prepared
by the Texas Real Estate Broker-Lawyer Committee. A licensee must use a
promulgated form when negotiating contracts that bind the sale, exchange,
option, lease, or rental of any interest in real property. However, the Commission
may not prohibit a license holder from using a contract form that is prepared by
the property owner or by an attorney of the property owner.

TREC Rule 537.11 lists the forms currently promulgated for mandatory use by
licensees and gives the instructions for completing the forms. It includes name
and reference number of the form along with the date the form was adopted
and the date of any amendments. Do not use earlier versions of a form. Doing
so is an unlawful, unauthorized practice of law. The current forms may be
found at the TREC website: http://www.trec.texas.gov.

TREC has the power to suspend or revoke a real estate license if it is determined
that a licensee failed to use a promulgated contract form for a specific contract
situation.

Advisory Committees
The Texas legislature created two advisory committees for TREC—the Texas
Real Estate Broker-Lawyer Committee and the Texas Real Estate Inspector
Committee. [§1101.158].
Texas Real Estate Broker-Lawyer Committee
The Texas Real Estate Broker-Lawyer Committee (Committee) was created in 1983 as an advisory body that develops and recommends various contract forms to TREC for use by licensees. The purpose is to expedite real estate transactions and reduce controversies while protecting the interests of the parties involved.

Texas Real Estate Inspector Committee
The Texas Real Estate Inspector Committee was created in 1991 to develop rules for licensing, certifying, and regulating real estate inspectors. Nine members make up this committee, which is appointed by the Real Estate Commission for overlapping six-year terms. Members must have at least five years experience as a professional inspector and no more than three may be real estate brokers. This committee is responsible for publishing the Standards of Practice that all licensed inspectors must follow. The Inspector Committee can also conduct hearings and recommend entry of final orders in contested disciplinary cases involving inspectors.

Subchapter E – Complaint Procedures
The Commission can only take disciplinary action against entities or individuals that it regulates. Texas law prohibits the agency from giving private legal advice or opinions or acting as an attorney.

Anyone may file a complaint with the Commission concerning the activities of its license holders. Texas law requires that complaints filed with TREC be written and signed by the party filing the complaint. TREC complaints can be filed with the agency in any written form; however, a suggested complaint form available on the TREC website.

TREC will not process a complaint if it is unsigned nor does it accept anonymous complaints or complaints via email, unless a signed complaint form is attached.

Subchapter F - Texas Real Estate Broker-Lawyer Committee
The Texas Real Estate Broker-Lawyer Committee (Committee) was created in 1983 as an advisory body that develops and recommends various contract forms to TREC for use by licensees. The purpose is to expedite real estate transactions and reduce controversies while protecting the interests of the parties involved.
TRELA Subchapter F describes the Committee in the following ways:

A Texas Real Estate Broker-Lawyer Committee is hereby created which, in addition to other powers and duties delegated to it, shall draft and revise contract forms capable of standardization for use by real estate licensees and which will expedite real estate transactions and reduce controversies to a minimum while containing safeguards adequate to protect the interest of the principals to the transaction.

The Texas Real Estate Broker-Lawyer Committee has 13 members—6 brokers appointed by TREC, 6 attorneys appointed by the President of the State Bar of Texas, and 1 public member appointed by the Governor. [TOC §1101.252(a)]. These appointments must be made without regard to race, creed, sex, religion, or national origin. [TOC §1101.252(b)].

Committee members serve staggered 6-year terms, with the terms of 2 Commission appointees and 2 State Bar appointees expiring every 2 years, and the term of the public member expiring every 6 years. [TOC §1101.253(a)]. A member of the Committee holds office until the member’s successor is appointed. [TOC §1101.253(b)]. If a vacancy occurs during a member’s term, the entity that made the appointment (Commission, State Bar, or Governor) appoints a new member to finish the unexpired term. [TOC §1101.253(c)].

The forms created by the Committee are not mandatory, since TREC ultimately has rule-making authority. The Committee merely develops and recommends their adoption. The purpose of the Committee is to draft and revise standardized contract forms for use in real estate transactions. This helps to expedite those transactions and minimize disputes, while protecting the interests of the parties involved—buyers, sellers, and also the real estate licensees. [TOC §1101.254].

Sec. 1101.254. Powers and Duties of the Committee

(a) In addition to other delegated powers and duties, the Committee shall draft and revise contract forms that are capable of being standardized to expedite real estate transactions and minimize controversy.

(b) The contract forms must contain safeguards adequate to protect the principals in the transaction.

Although the Committee drafts real estate contract forms and recommends their adoption to TREC, the forms are not yet mandatory. They become mandatory (promulgated) when TREC adopts them. The forms are then known as promulgated contract forms and Texas real estate licensees are required to use them.
Subchapter G - TREC Approved Schools and Courses of Study

The Education & Licensing Services (ELS) Division approves and regulates continuing education providers and accredited schools offering real estate courses (qualifying and real estate-related) and inspector courses. Additionally, the ELS Division approves the courses and determines the competency of instructors.

The Education Standards Advisory Committee (Committee) was created in 2012 to regularly review and revise curriculum standards, course content requirements, and instructor certification requirements for qualifying and CE courses. [§535.75]. The Committee has 12 members appointed by the Commission—seven with at least 5 years of active participation in practicing real estate, four real estate instructors or owners of TREC-approved real estate schools, and one representing the public.

Proprietary School Approval

Proprietary schools that want to offer qualifying real estate licensing courses in Texas must first be approved by TREC. The school approval process includes submitting an application for the school itself, providing a $20,000 surety bond payable to the Texas Real Estate Commission, and submitting a Principal Application form. The Principal Application form is required for any person owning at least a 10% interest in the school and provides background information for that person. Additionally, a current statement of financial condition and a current statement of net worth are required.

The Commission may suspend or revoke an accreditation or take any other authorized disciplinary action if the provider violates The Real Estate License Act. [§1101.6561].

CE Provider Approval

A person who wants to offer TREC-approved CE courses must apply to the Commission for approval to be an CE provider as well as obtain approval of each CE course and instructor(s). Each prospective CE provider must submit a provider application with the appropriate fee. If the application is complete and all requirements are met, the applicant will be approved as a CE provider for two years, unless withdrawn earlier for cause. Authority to offer any CE courses ends with the expiration of the provider’s approval and the provider must pay current fees and reapply for approval as a provider in order to offer CE courses again.
An elective credit course registered with the Commission may be offered by the provider for a period of 2 years after the course is registered or until the provider’s authority to act as a provider finally expires or is withdrawn for cause, whichever first occurs.

**Instructor Approval**

Instructors must be approved to teach qualifying courses, CE elective courses, and TREC’s Legal Update courses. Instructor approvals are granted to the individual instructors, NOT to the schools utilizing the instructors, and are valid for a period of two (2) years.

Any instructor who wants to teach TREC’s Legal Update courses must obtain certification by attending instructor training sessions for those courses.

**Course Approval**

TRELA gives the Commission authority to approve courses of study in real estate and real estate inspection offered by proprietary schools for licensing purposes. [§1101.301]. The required qualifying courses for real estate licensing are listed in TRELA, section 1101.003 (a)(1) through (11). The law also includes the topics that must be included in each course in order to be approved.

**Qualifying Real Estate Courses**

1. Agency Law
2. Contract Law
3. Principles of Real Estate
4. Property Management
5. Real Estate Appraisal
6. Real Estate Brokerage
7. Real Estate Finance
8. Real Estate Investment
9. Real Estate Law
10. Real Estate Marketing
11. Real Estate Mathematics

The Commission established accreditation standards to determine whether a real estate course or real estate inspection course satisfies the requirements, and if it does, the Commission approves the course.
Pursuant to TRELRA, at least 50% of a program’s graduates must pass a Commission licensing exam the first time the exam is taken by its graduates in order for a school to renew its program accreditation. [§1101.301 (3)(c)]. The Commission collects and publishes data relating to examination passage rates for graduates of accredited educational programs. The examination passage rates are posted on the TREC website by educational program and by license group.

Subchapter H - Types of Licenses

In Texas, a person must have a real estate license before engaging in any of the real estate activities that require a license.

Types of Licenses

Currently, TREC issues four types of licenses—Inactive Sales Agent License, Sales Agent License, Broker License, and Probationary License. Real estate broker and sales agent licenses are issued for a two-year period. If a license is obtained by fraud, misrepresentation, or deceit, the Commission may suspend the license without a hearing.

Initial Inactive Sales Agent License

The Inactive Sales Agent License is a preliminary step in obtaining an active Sales Agent License. The Commission issues an Inactive Sales Agent License to a person who applies for the sales agent license, submits proof of completion of the educational requirements, and passes the state sales agent license examination, but does not yet have a sponsoring broker. The holder of an Inactive Sales Agent License cannot practice real estate.

Sales Agent License

A person with a Sales Agent License is permitted to practice real estate under the guidance of a person who holds an active real estate broker’s license. During this tenure, the sales agent may not accept any compensation for a real estate transaction nor share a real estate commission except through his or her sponsoring broker.

Broker License

A person with a Broker License may do any of the real estate activities for which a license is required. He or she may work independently, or may operate a brokerage business under his or her own name, or under a fictitious business name. A fictitious business name (doing business as - DBA) is any name other than his or her own personal name.
Any broker who places his or her license with a sponsoring broker is called a broker associate. It is good business practice to have a written employment agreement regarding the duties and expectations of broker associates.

**Business Entity Broker License**

The Real Estate License Act requires a business entity (corporation, LLC or partnership) to be licensed as a real estate broker if the business entity provides brokerage services.

A corporation may be licensed as a real estate broker as long as one officer of the corporation is a qualified real estate broker acting responsibly as the corporation’s designated broker-officer. An LLC is required to designate a manager of the LLC to act for it. A general partner of a partnership must be designated to act for a partnership.

For the application to be approved and a license issued, the designated officer, manager, or general partner must be individually licensed as an active Texas real estate broker (designated broker) and will have the authority to act as a real estate agent on behalf of the business entity.

**Probationary License**

A Probationary License is a license that is subject to certain terms and conditions. Obviously, a person with a Probationary License must comply with TRELA and the Rules of the Texas Real Estate Commission.

**Other Conditions that may be Included in a Probationary License**

- Required education specific areas of study during the probationary period
- Real estate brokerage practice limited to specific areas
- Probationary licensee may need to report regularly to the Commission
- Probationary licensee must comply with any other terms and conditions contained in the order which have been found to be reasonable and appropriate by the Commission after due consideration of the circumstances involved in the particular application

**Inactive License Status**

The license of a broker or sales agent may voluntarily (or involuntarily) be put on inactive status.
Inactive Sales Agent Status

An inactive sales agent is a licensed sales agent who does not have a sponsoring broker, does not perform any activities for which a sales agent license is required, or who has been placed on inactive status by the Commission.

After leaving a broker's sponsorship, a sales agent's license automatically defaults to inactive status until he or she renews it. A sales agent has the option to remain on inactive status indefinitely as long as he or she continues to pay the fees to TREC. When a sales agent is discharged for a violation of any of the provisions of The Real Estate License Act, the sponsoring broker shall immediately return the sales agent's license (or copy) to the Commission or otherwise notify the Commission that the sponsorship has ended.

If a broker's license expires or the broker dies, all licensed activities of the broker must stop and the broker's entire staff of sales and broker associates (if any) is immediately placed on inactive status. Any branch office licenses are cancelled. That means no listing, selling, showing, leasing, or any licensed activity between the date of license expiration, and the date of late renewal. A commission may not be claimed without a valid license.

Once the broker has renewed his or her license, all the sales' licenses and branch office licenses must be reactivated. Like a sales agent, a broker can elect to place him or herself on inactive status as long as he or she notifies TREC in writing before the license expires and pays the annual fee. The broker must also notify any sponsored sales agents 30 days prior to applying for inactive status.

Inactive Broker Status

An inactive broker is a licensed broker who does not sponsor sales agents, perform any activities for which a broker license is required, or who has been placed on inactive status by the Commission.

To be placed voluntarily on inactive status, a broker must submit the Application for Inactive Broker or Sales Agent Status form to the Commission, return the broker's current license certificate to the Commission, and state the he or she gave written notice at least 30 days prior to filing the request for inactive status to any sponsored sales agents.

A broker who has been on inactive status may resume practice must submit the Application for Broker to Return to Active Status form, pay the appropriate fee, and satisfy CE requirements.
Steps in Getting a Texas Real Estate License

Before an applicant for a real estate sales agent or broker license may obtain a license, he or she must fulfill certain requirements and then apply for and pass a real estate examination.

General Requirements—Texas Real Estate License

To be eligible to get a Texas real estate sales agent or broker license, a person must be at least 18 years old, be a citizen of the United States or a lawfully admitted alien, and meet any applicable residency requirement.

General Eligibility – Texas Real Estate License

• At least 18 years old
• Citizen of the United States or a lawfully admitted alien
• Meet residency requirement

The person must be honest, trustworthy, and have integrity. Additionally, the applicant must complete the required courses of study and pass the state licensing examination. [§1101.354].

Background Check

Any person wanting to obtain a real estate broker or sales agent license must submit an application along with a complete set of legible fingerprints to TREC. Filing the application authorizes TREC to investigate the applicant's background. The application form asks whether an applicant has ever entered a plea of guilty or nolo contendere to a felony or been convicted of a felony. Using the information in the application and the fingerprints, the Commission conducts a criminal background check. An applicant's moral character is reflected by a lack of convictions for felonies or misdemeanors (other than traffic tickets).

Even if all of the other requirements for licensure are met, information discovered by the investigation may cause the application to be denied.

Warning: State law prohibits the renewal of a license if a licensee has defaulted on a student loan with the Texas Guaranteed Student Loan Corporation (TG) and is not currently making payments under a repayment agreement. Therefore, an initial or renewal application may be rejected if TG has notified TREC that the applicant has defaulted on a student loan.
Submit the Application
The application and supporting documents (if any) may be submitted online or mailed. However, online applications travel through the system much faster than paper-based applications. The online application process could potentially save weeks of waiting for a license, due to the delays of regular mail communication and other factors inherent in the paper-based process (such as data entry time and processing of checks).

At times, the Commission denies a license application. When this occurs, the applicant is entitled to a hearing conducted by the State Office of Administrative Hearings.

Applying to Become a Real Estate Sales Agent
Obtaining an active Texas real estate sales agent license can be broken down into five main steps.

1. Complete the education requirements.
2. File a completed application for an inactive sales agent license.
3. Undergo fingerprinting and pass a background check.
4. Pass the qualifying examination.
5. Obtain sponsorship from an active real estate broker.

An applicant must complete the education requirement before being eligible to take a qualifying examination for a license. An application is considered void if the applicant fails to satisfy a current education or examination requirement within 1 year from the date the application is filed.

Complete Education Requirements
A Texas real estate sales agent is required to have completed a total of 270 classroom hours of education, by the end of their second (2nd) year of licensure. However, to be eligible to file an application for a sales agent license, a person only must complete 180 classroom hours of approved qualifying licensing courses.

Required Qualifying Courses for the Real Estate Sales Agent License
- Principles of Real Estate, I – 30 classroom hours
- Principles of Real Estate, II– 30 classroom hours
- Law of Agency– 30 classroom hours
- Law of Contracts– 30 classroom hours
- Promulgated Contract Forms– 30 classroom hours
- Real Estate Finance– 30 classroom hours
Prelicensing courses may be taken from a TREC-approved private vocational real estate school or from a comparable regional accrediting entity. Unless the Texas Real Estate Commission has granted prior approval, no private vocational real estate school outside Texas may grant credit for the required prelicense courses.

Sales Agent Apprentice Education

To meet the 270 hour sales agent requirement, before the end of the 2nd year of licensure an additional 90 classroom hours in qualifying courses and 8 hours of Legal Updates I and II must be completed. The 98 additional hours are called Sales agent Apprentice Education or SAE. Qualifying courses may be selected from the following list.

**Qualifying Courses**

- Property Management
- Real Estate Appraisal
- Residential Inspection for Real Estate Agents
- Real Estate Law
- Real Estate Brokerage
- Real Estate Mathematics
- Real Estate Investments
- Real Estate Marketing

Of course, a person can complete all 270 hours when he or she first submits the application. However, a sales agent still must complete the 8 hours of Legal Updates I and II before the end of the 2nd year of licensure. If so, the SAE requirements are satisfied and the Continuing Education (CE) hours will NOT be required for the first license renewal.

**Apply for the Inactive Sales Agent License**

Once a person has met the education requirements, the next step is to apply for the license by completing an application. A person applying for the sales agent license fills out the Application for Inactive Sales Agent License along with the appropriate education documents and sends them to TREC along with the appropriate fees.

If an application is submitted without the appropriate fees, it will be rejected and returned. If all the requirements for a license are not met within one (1) year of the filing date, the application will expire. Remember, an applicant for a sales agent license may not act as a real estate agent.
Submit Required Fingerprints for Background Check

Any person applying for or renewing a sales agent license must provide their fingerprints. Once the applicant has obtained a TREC entity number he or she can schedule an appointment through MorphoTrust. A license will not be issued if the background check has not been cleared. An additional fee for the background check must be included with the application for applicants who already have fingerprints on file with TREC. First time applicants must pay MorphoTrust directly.

Take and Pass the Real Estate Examination

The Commission uses PearsonVue to administer its license examinations. Once a sales agent-applicant has met the TREC qualifications, TREC sends an eligibility letter including an ID number to the applicant. The ID number allows access to the PearsonVue testing services website so applicants may register for the examination and can download a copy of the Candidate Handbook.

The Candidate Handbook explains the examination process and contains study material and instructions for making a reservation with PearsonVue. The applicant must pass the examination within one (1) year after the date the application is filed with TREC. The PearsonVue website is http://www.pearsonvue.com/tx/realestate.

TREC may waive the examination requirement for a sales agent license if the applicant was previously licensed in Texas as a broker or sales agent and the application is filed before the first anniversary of the expiration date of that license.

After passing the real estate examination, TREC will notify the sales agent applicant who does NOT have a sponsoring broker that an inactive sales agent license has been issued. The inactive license represents completion of the requirements, but does not allow the person to take part in real estate practices until a sponsoring broker is obtained.

However, for those with a sponsoring broker, TREC will send an active sales agent license to the sponsoring broker. This way, newly licensed sales agents will be able to start working for their sponsoring broker as soon as the broker receives their active sales agent licenses.
Obtain Broker Sponsorship
A person does not have to have a sponsoring broker at the time the license application is filed. However, to activate the license, the sales agent must obtain sponsorship from an active real estate broker. The sales agent must fill out a Sales Agent Sponsorship Form, have the broker sign the form, and submit the form with the applicable fee to TREC. Once this process is completed, TREC will send an active sales agent license to his or her sponsoring broker. A sales agent may not lawfully engage in brokerage activity unless the sales agent is associated with, and acting for, the sponsoring broker at all times. [§1101.351(c)]

Applying for a Texas Real Estate Broker License
In addition to the general eligibility requirements, obtaining an active Texas real estate broker license can be broken down into four main steps.

A broker applicant must:
1. meet the experience requirements.
2. complete the education as required by the Commission.
3. apply for the state examination and pay the applicable fee.
4. pass the qualifying examination.

An applicant must complete the education and experience requirements before being eligible to take a qualifying examination for a license. An application is considered void if the applicant fails to satisfy a current education, experience, or examination requirement within 1 year from the date the application is filed.

Satisfy Experience Requirements
A broker candidate must have at least 4 years active experience in Texas as a licensed real estate sales agent or broker during the 60-month period immediately preceding the filing of the application. If the applicant is licensed as a broker in another state, the requirement is at least 4 years active experience as a licensed real estate sales agent or broker during the 60-month period immediately preceding the filing of the application. [§535.56]

In addition, an applicant must provide documentation that shows at least 3,600 points of qualifying practical experience obtained during this period including one closed transaction for each year for which the applicant is claiming experience. Proof of the broker-applicant’s qualifying experience is submitted on a TREC form.
**Transaction Type and Experience Points per Transaction**

<table>
<thead>
<tr>
<th>Residential: Single Family, Condo, Co-op, Multi-family (1-4 units)</th>
<th>Transaction Type</th>
<th>Points per Transaction</th>
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</thead>
<tbody>
<tr>
<td>Closed Purchase or Sale (with improvements)</td>
<td>300 points</td>
<td></td>
</tr>
<tr>
<td>Executed Lease Landlord or Tenant (new, renewal, or extension)</td>
<td>50 points</td>
<td></td>
</tr>
<tr>
<td>Property Management (rent collection per property/per year)</td>
<td>25 points</td>
<td></td>
</tr>
<tr>
<td>Exclusive Right to Sell Listings</td>
<td>10 points</td>
<td></td>
</tr>
<tr>
<td>Buyer or Tenant Representation Agreements</td>
<td>10 points</td>
<td></td>
</tr>
<tr>
<td>Closed Purchase or Sale Unimproved Residential Lot</td>
<td>50 points</td>
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</table>

<table>
<thead>
<tr>
<th>Commercial: Apartments (5 units or more), Office, Retail, Mixed Use, Industrial, Hotel, Parking Facility, Specialty, Other</th>
<th>Transaction Type</th>
<th>Points per Transaction</th>
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<tr>
<td>Closed Purchase or Sale</td>
<td>500 points</td>
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</tr>
<tr>
<td>Executed Lease Landlord or Tenant - new, renewal, or extension per year (up to five years per transaction)</td>
<td>100 points</td>
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</tr>
<tr>
<td>Property Management (rent collection per property/per year)</td>
<td>150 points</td>
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</tr>
<tr>
<td>Listings</td>
<td>20 points</td>
<td></td>
</tr>
<tr>
<td>Buyer or Tenant Representation Agreements</td>
<td>20 points</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Farm &amp; Ranch, Unimproved Land: Farm and Ranch (with residence, improved or unimproved) or Unimproved Land</th>
<th>Transaction Type</th>
<th>Points per Transaction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Closed Purchase or Sale</td>
<td>300 points</td>
<td></td>
</tr>
<tr>
<td>Executed Lease Landlord or Tenant (new, renewal, or extension)</td>
<td>50 points</td>
<td></td>
</tr>
<tr>
<td>Property Management (rent collection per property/per year)</td>
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<tr>
<td>Listings</td>
<td>10 points</td>
<td></td>
</tr>
<tr>
<td>Buyer or Tenant Representation Agreements</td>
<td>10 points</td>
<td></td>
</tr>
</tbody>
</table>
**Complete Education Requirements**

A broker candidate must complete 270 classroom hours of qualifying real estate courses and an additional 630 classroom hours in related courses for a total of 900 classroom hours.

The 270 classroom hours of qualifying real estate courses must include a 30-hour course in **Real Estate Brokerage**. The remaining 240 classroom hours of qualifying course may be selected from the following list.

**Qualifying Courses**

- Principles of Real Estate, I
- Principles of Real Estate, II
- Law of Agency
- Law of Contracts
- Promulgated Contract Forms
- Real Estate Finance
- Real Estate Appraisal
- Real Estate Law
- Property Management
- Residential Inspection for Real Estate Agents
- Real Estate Investments
- Real Estate Marketing
- Real Estate Mathematics

The remaining 630 classroom hours may be completed by selecting any remaining qualifying courses or selecting courses from the extensive list of real estate related courses. The list of real estate related courses may be found on the TREC website at http://www.trec.texas.gov. The “related course” requirement may be met with a copy of a college transcript noting that a bachelor degree has been awarded from an accredited college or university. It does not satisfy the qualifying courses. A copy of the college transcript awarding the degree must be submitted as evidence of completion of the degree.

Prelicensing qualifying and related courses may be taken from a TREC-approved private vocational real estate school or from a comparable regional accrediting entity. Unless the Texas Real Estate Commission has granted prior approval, no private vocational real estate school outside Texas may grant credit for the required prelicense courses.
Apply for the Broker License

Once a person has met the experience and education requirements, the next step is to apply for the license by completing an application. A person applying for the broker license fills out the Application for Broker License by an Individual along with the appropriate experience and education documents and sends them to TREC along with the appropriate fees.

The application and fee schedule for the broker license may be obtained from the TREC website. If an applicant has been previously fingerprinted for TREC, additional prints are not required. However, the applicant must pay a subsequent background check fee with the broker application. All fees are nonrefundable and include the TREC Application Fee, Occupations Fee, Real Estate Center at Texas A&M fee, and Background Check Fee. If the application is sent by mail there is a Paper Filing Fee. Additionally, the Recovery Fund Fee is collected if it has not been paid previously. If an application is submitted without the appropriate fees, it will be rejected and returned.

If all the requirements for a license are not met within one (1) year of the filing date, the application will expire.

Remember, an applicant for a broker license may not act as a broker until the person receives the broker license from TREC.

Take and Pass the Real Estate Examination

The Commission uses PearsonVue to administer their license examinations. Once a broker-applicant has met the TREC qualifications, TREC sends an eligibility letter including an ID number to the applicant. The ID number allows access to the PearsonVue testing services website so applicants may register for the examination and can download a copy of the Candidate Handbook.

The Candidate Handbook explains the examination process and contains study material and instructions for making a reservation with PearsonVue. The applicant must pass the examination within one (1) year after the date the application is filed with TREC. The PearsonVue website is http://www.pearsonvue.com/tx/realestate.

TREC may waive the examination requirement for a broker license if the applicant was previously licensed in Texas as a broker and the application is filed before the first anniversary of the expiration date of the person’s broker license.
When an applicant passes the examination and satisfies other requirements, such as the determination of moral character and fingerprinting, the Commission sends an active broker license, and the person can begin practicing. If all requirements have not been satisfied, the Commission will advise the applicant.

**Out-of-State Applicants**

Texas has no reciprocity with any other state to allow a waiver of any of the requirements to obtain a license. However, a person already licensed in another state may not have to take the national portion of the Texas examination if he or she has already passed a comparable national examination that is accredited by a nationally recognized real estate regulator association such as ARELLO.

A person does not have to be a Texas resident to become licensed in Texas, but he or she must take the appropriate written examination in Texas and meet all other requirements. Out-of-state residents applying for a Texas broker license must have at least 4 years’ experience as a real estate broker in the last 60 months prior to applying for the license. Brokers must maintain a Texas address if they wish to conduct business in Texas, and sales agents must be sponsored by an active Texas broker if engaging in business in Texas.

A nonresident licensee must provide an irrevocable consent to service of process stating that if a legal action is commenced against him or her in the State of Texas and personal service cannot be made, then a valid service may be made by delivering the process on the Executive Director or Assistant Executive Director of the Commission.

**Online Licensing Transactions**

TREC offers an online licensing service that allows license application, renewal, and change transactions to take place via the Internet. The following list includes many of the transactions available.

**Online Licensing Transactions**

- License applications
- License renewals
- Broker certification of sales agent sponsorship
- License status checks
- Licensee mailing address changes
- Search for forms, rules, newsletters, meeting minutes, etc.
- Searches for approved CE and qualifying courses
User-friendly features include customized menus, email confirmations, status tracking of online transactions, and clear instructions. Online Licensing is on the TREC website at http://www.trec.texas.gov.

Subchapter I - Real Estate License Examination

State law requires that Texas real estate licensees must demonstrate their competence, which is based on an examination. [§1101.354(3)]. The examination must be of sufficient scope to determine whether a person is competent to act as a broker or sales agent in a manner that will protect the public in all transactions in which they are represented by an agent. To meet this requirement, the Texas Real Estate Commission contracted with PearsonVue to conduct its examination program. PearsonVue is a national licensure testing service that provides examinations through a network of computer examination centers in Texas.

Registering for the Examination

Once TREC receives and approves a person's application, TREC sends an eligibility letter with an ID number to the applicant. Applicants use this ID number to register with PearsonVue to take the examination. PearsonVue provides four methods to register for the examination—Internet registration, telephone registration, mail-in registration, and fax registration. These methods are described in the Candidate Handbook.

Once the applicant is registered with PearsonVue, he or she can schedule an appointment to take the examination.

On the day of the examination, a person should arrive early and must provide TWO forms of identification to PearsonVue. One must be a valid form of government issued identification (driver's license, state ID, or passport), that has the person's signature and photograph. The second ID must have the person's signature and preprinted legal name. The name on the ID must match the name on the eligibility letter from TREC.

Description of the Examinations

PearsonVue gives the Texas Real Estate Sales Agent and the Texas Real Estate Broker examinations. Each examination itself consists of two parts, national and state. The first part tests an applicant's knowledge on national real estate topics, and the second part covers Texas-specific subjects. TREC allows any candidate who passes either the national or state portion of the examination to retake only the portion of the test he or she failed. However, a candidate must pass both portions to become licensed.
The examinations are closed book; therefore, no reference materials are allowed. Candidates need to bring a nonprogrammable calculator that is silent, battery-operated, does not have paper tape printing capabilities, and does not have a keyboard containing the alphabet.

The examination for a sales agent license is less exacting and less stringent than the broker examination.

**Sales Agent Examination**

The sales agent exam has 110 scored multiple-choice questions (80 national, 30 state-specific) with a maximum time limit of 150 minutes for the national portion and 90 minutes for the state portion (4 total hours). Sales agent candidates must correctly answer 70% of the questions on each portion of the test to be eligible for a sales agent license.

**Broker Examination**

The broker exam consists of 120 scored multiple-choice questions (80 national, 40 state-specific). Like the sales agent exam, the maximum time limit is 150 minutes for the national portion and 90 minutes for the state portion (4 total hours). Broker candidates must correctly answer 75% of the questions on each portion of the test to be eligible for the broker license.

### Examination Summary Table

<table>
<thead>
<tr>
<th>Examination</th>
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<th># Correct</th>
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<td>56</td>
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</tr>
<tr>
<td></td>
<td>State</td>
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<td></td>
<td>Total</td>
<td>110</td>
<td>77</td>
<td>240 minutes</td>
</tr>
<tr>
<td>Broker</td>
<td>National</td>
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<td>150 minutes</td>
</tr>
<tr>
<td></td>
<td>State</td>
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<td>90 minutes</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>120</td>
<td>90</td>
<td>240 minutes</td>
</tr>
</tbody>
</table>

### Content Outline of the Examination

The content outline lists the topics that are on the examination.

**National Portion**

The national portion tests an applicant’s general knowledge of real estate, appraisal, finance, forms, and other fundamentals of the industry.
Subjects Tested on the National Portion

- Real property characteristics, definitions, ownership, restrictions, and transfer
- Property valuation
- Contracts and relationships with buyers and sellers
- Property condition and disclosures
- Risk management
- Risk management
- Federal laws governing real estate activities
- Financing the transaction and settlement
- Leases, rents, and property management
- Brokerage operations
- Ethical and legal business practices

State Portion

The subject matter of the state portion covers the laws and procedures specific to Texas.

Subjects Tested on the State Portion

- Commission Duties and Powers
- Licensing
- Standards of Conduct
- Agency/Brokerage
- Contracts
- Special Topics

Reporting the Scores

The score will be given to the candidate immediately following completion of the examination.

The examination begins once the candidate has viewed the first examination question. The examination ends once time has expired.

When the examination is taken on paper, an official score report (pass or fail) is printed at the examination site. This report includes a diagnostic report indicating the strengths and weaknesses by examination portion.

If a candidate does not pass, reservations for re-examination cannot be made at the test center. The candidate must wait twenty-four (24) hours before scheduling a re-examination.
Subchapter J - Renewing a Real Estate License

In general, active sales agent and broker licenses may be renewed by submitting the appropriate fees and renewal application, along with evidence of completion of at least 18 hours of TREC-approved Continuing Education (CE) courses.

In addition to a license renewal fee, all licensees who have been fingerprinted for TREC will have to pay another fee for a background check with each subsequent renewal or application.

An individual broker or sales agent whose license has been expired less than 6 months who files late renewal may renew the license without any lapse in licensure.

Education is ongoing for Texas brokers and sales agents—whether it is the Sales Agent Apprentice Education (SAE) requirement or the Continuing Education (CE) courses.

SAE Requirement

All active and inactive sales agents, who are under the Sales Agent Apprentice Education (SAE) requirement, must submit proof of completing the 90 hours of qualifying real estate education and 8 hours of Legal Update I and II by the end of the second (2nd) year of licensure. [§1101.454(a)].

Evidence of successful course completion must be posted to the TREC computer system prior to the online renewal process or the license will expire.

Sales Agent Continuing Education

All active sales agents not subject to the SAE requirement must complete 18 hours of continuing education (CE) for an active license renewal. At least 8 of the 18 hours must consist of a 4-hour Legal Update I Course and a 4-hour Legal Update II Course promulgated by TREC. The balance of the CE hours may be completed by taking elective real estate courses approved by TREC. [§1101.455].

Sales Agent CE for License Renewal

- 4-hour Legal Update I: Laws, Rules & Forms
- 4-hour Legal Update II: Agency, Ethics & Hot Topics
- 10 hours of TREC-approved elective CE courses
A course may not be repeated for credit during the same license period. TREC-approved CE course providers are responsible for notifying TREC when a licensee has completed an CE course. CE providers are allowed 10 days to submit proof of course taken.

Broker Continuing Education

All active brokers are required to complete 18 hours of continuing education (CE) for an active license renewal. At least 8 of the 18 hours must consist of a 4-hour Legal Update I Course and a 4-hour Legal Update II Course promulgated by TREC. The balance of the CE hours may be completed by taking elective real estate courses approved by TREC. [§1101.455].

Additionally, a broker who sponsors one or more sales agents, the designated broker of a business entity, and any license holder who supervises another license holder for six months or more during the course of the current license, must take a 6-hour Broker Responsibility Course promulgated by TREC. The balance of the CE hours may be completed by taking elective real estate courses approved by TREC.

Broker CE for License Renewal

- 6-hour Broker Responsibility Course
- 4-hour Legal Update I: Laws, Rules, and Forms
- 4-hour Legal Update II: Agency, Ethics, and Hot Topics
- 4 hours of TREC-approved elective CE courses

A course may not be repeated for credit during the same license period. CE course providers are responsible for notifying TREC when a licensee has completed an CE course. CE providers are allowed 10 days to submit proof of course taken.

Subchapter K – Certificate Requirements for Right-of-Way Agents

The Texas Real Estate Commission registers persons who act as agents with regard to easements or rights-of-way for use in connection with telecommunication, utility, railroad, or pipeline service. When a pipeline is proposed through a certain area, a right-of-way agent will talk to the landowners in an attempt to gain an underground easement for the pipeline. This type of activity requires that the individual has a certificate of registration issued by TREC.
To be eligible to get a Texas Real Estate Easement or Right-of-Way Agent Registration, a person must be at least 18 years old and be a citizen of the United States or a lawfully admitted alien.

**General Eligibility – Certificate of Registration**

- At least 18 years old
- Citizen of the United States or a lawfully admitted alien

In addition, a person must submit a completed application along with a set of fingerprints in order to do a criminal history background check. Each registration is required by law to have fingerprints on file with the Department of Public Safety (DPS) for TREC. If an applicant has been previously fingerprinted for TREC, additional prints are not required. However, the applicant must pay a subsequent background check fee.

As with other Texas licenses, state law prohibits issuing a certificate of registration after a registrant has defaulted on a student loan guaranteed by the Texas Guaranteed Student Loan Corporation (TG) unless the registrant has entered into a repayment agreement with TG.

The registration certificate will be issued once all requirements are met and TREC receives confirmation from DPS that the applicant’s fingerprints are on file. Registration certificates are issued for two years and are renewed in the same way that real estate licenses are renewed. The Certificate of Registration must be prominently displayed at the certificate holder’s place of business.

An applicant cannot perform any act for which an Easement or Right-Of-Way Registration is required until a registration certificate has been issued to the applicant by the Texas Real Estate Commission.

**Subchapter L – Practice by a License Holder**

**Broker Must Maintain an Office**

An active broker must maintain an office (a home office is acceptable), and the address must appear on the broker’s license. Whenever a broker moves locations, he or she must submit a Change of Main Office Address by Broker form to the Commission within 10 days of the relocation. A nonresident licensed broker is not required to maintain a place of business in Texas.

In addition to a main office, a broker may have one or more places of business. A place of business is a place where the associate licensees meet with clients and
customers to transact business. If a broker or the broker’s sales agents maintains more than one place of business to meet the public to transact business, the broker must obtain a **branch office license**. A license is required for each branch office maintained by the broker, and the license certificate for each branch office must display the address of the broker's main office. [§1101.552, Rule 535.112].

A sales agent may work out of the sponsoring broker’s main office or branch office. However, a sales agent’s cannot work out of another broker's office because his or her sponsoring broker is still responsible for the sales agent's actions. [§1101.803, Rule 535.2(a)]

**Display Residential Rental Locator License**

A broker or sales agent who is a residential rental locator must prominently display his or her real estate license along with a statement that the locator is licensed by the Commission. The statement must include the name, mailing address, and telephone number of the Commission. [§1101.553]

A person who wants to be a residential rental locator (apartment locator) must be licensed as a real estate broker or sales agent’s, unless he or she is an employee of the apartment owner. [§1101.351(a)(2), Rule 535.4(k)]. A **residential rental locator** is a person who expects to be paid to find a prospective tenant a unit that is for lease in an apartment complex. Unlicensed individuals who conduct residential rental location activity are subject to administrative penalties and criminal charges. [§1101.757 & §1101.759]

If the lease is for more than one year, a locator needs to provide prospective tenants with the Information About Brokerage Services form. However, if the transaction concerns a residential lease of not more than one year and no sale is involved, the locator would not be required to provide the tenant with a copy of the Information About Brokerage Services form. [§1101.558(c)]

**Custody of Sales Agent Licenses**

Brokers have specific obligations regarding the licenses of their sponsored associate licensees. TREC mails the actual sales agent’s license to the broker with whom the sales agent is associated. Brokers keep custody and control of the original licenses, but may give a copy to their sponsored sales agents. [§1101.554]
Notice To Buyer Regarding Abstract Or Title Policy

When an offer to purchase real estate in Texas is signed, a license holder must advise each buyer, in writing, that the buyer should have the title abstract for the property examined by an attorney chosen by the buyer. Otherwise the buyer must be provided with or obtain a title insurance policy. [§1101.555].

Disclosures Relating To Certain Occupants

AIDS or HIV infection

Because persons with AIDS or HIV infection are a protected class, if the seller or occupant of the house is diagnosed with AIDS or HIV, neither the seller nor the agent are legally obligated to disclose this fact. [PR Code §5.008(c) and TRELA §1101.556(1)]. According to the Department of Housing and Urban Development (HUD), it is illegal for real estate agents to make disclosures that a current or former occupant of the property has AIDS. If a prospective purchaser directly asks an agent if a current or former occupant has AIDS, and the agent knows this is in fact true, HUD advises that the agent should not respond.

Death on the Property

Neither the transferor (seller/lessor) nor the agent has a duty to disclose any death on the property from natural causes, suicide, or accident (unrelated to the condition of the property). [PR Code §5.008(c) and TRELA §1101.556(2)]. However, murder is not covered by this “no duty” statute. A murder occurring on the property might be considered a material fact a buyer would want to know before purchasing a property.

The TREC Seller’s Disclosure of Property Condition does not inquire about death on the property, but the TAR Seller’s Disclosure Notice does have a question that asks the seller about deaths not covered by the “no duty” rule. If a murder has occurred on the property, the seller should answer this question in the affirmative.

Representation Disclosure

Before entering into an agency relationship with a real estate broker in Texas, the broker must give prospective clients a form that summarizes the types of representation and the brokerage services available in Texas. When disclosing representation, many agents use the Information About Brokerage Services (IABS) statement, which is a TREC-approved form that fulfills the requirements of TRELA §1101.558(d).
Section 1101.558(b-1) of TREA requires that at the time of a license holder’s first substantive communication with a prospective client, the broker or sales agent must provide a prospective client with a written statement describing a broker’s duties and obligations. The written notice must be in at least a 10-point font and describe the ways in which a broker can represent a party to a real estate transaction, including intermediary brokerage. Additionally, it must include the name, license number, and contact information for the sales agent and the sales agent’s supervisor and broker, if applicable. **Substantive communication** means a meeting or written communication that involves a substantive discussion relating to specific real property.

### Broker Acting As Intermediary

A broker may act as an intermediary between parties to a real estate transaction if the broker obtains written consent from each party for the broker to act as an intermediary in the transaction; and the written consent of the parties states the source of any expected compensation to the broker. [§1101.559].

### Subchapter N – Prohibited Practices and Disciplinary Proceedings

Real estate agents must be prepared to meet the duties and obligations required by law. If they do not comply, they may be subject to civil, criminal and/or TREC action and penalties. All around the country, courts, and legislatures are continuing to hold real estate agents accountable for their activities. Increasingly, agents must know what and how to disclose—as well as when, where, why, by, and to whom. The uninformed real estate agent is highly vulnerable to court action in our consumer-oriented society.

Real estate regulations uphold the federal and state fair housing laws, which prohibit discrimination in housing and business establishments. Some examples of prohibited practices are **blockbusting** (causing panic selling by telling people that values in a neighborhood will decline because of a specific event), **steering** (the practice of only showing clients property in certain areas), and **redlining** (the use of the location of the property to deny financing).

The Texas Real Estate Commission is empowered to adopt regulations to enforce the real estate law. Duly adopted regulations become provisions of The Real Estate License Act and, in effect, have the force and authority of the law itself.
Therefore, all licensees and prospective licensees should be thoroughly familiar with the Texas Real Estate Commission’s regulations, which should be considered in conjunction with the law, because they specifically outline procedures directed and authorized by the statutes.

The license law is found in the Texas Occupations Code. Chapter 1101 of the Texas Occupations Code lists the regulations of The Real Estate License Act that pertain to real estate brokers and sales agents.

**Subchapter N - Violations**

Subchapter N of The Real Estate License Act focuses on the prohibited practices as well as the disciplinary proceedings that take place for licensee violations. A person who purposely violates or fails to comply with The Real Estate License Act commits an offense which is a Class A misdemeanor.

**1101.651 - Prohibited Practices, Commissions**

A licensed broker may NOT pay a commission to or compensate a person (directly or indirectly) for performing an act of a broker unless the person is a license holder or a real estate broker licensed in another state. [§1101.651(a), TAC §535.147]

A sales agent can ONLY accept compensation for a real estate transaction from his or her sponsoring broker. The sales agent must have been sponsored by the broker when the sales agent earned the compensation. [§1101.651(b), TAC §535.3]

A sales agent may not pay a commission to a person except through the broker with whom the sales agent is sponsored. [§1101.651(c), §1101.652(b)(11), TAC §535.3]

**1101.652 (a) - Grounds for Suspension or Revocation of License**

Under Part (a), the Commission may suspend or revoke a broker or sales agent license or take other disciplinary action if the license holder violates any provisions of Section 1101.652(a)(1 through 10). When “a reasonable time” is referenced, it means 10 calendar days (unless otherwise specified). [TAC 535.1(11)].
Under Section 1101.652(a), the license may be suspended or revoked if the license holder:

1. enters a plea of guilty or nolo contendere to or is convicted of a felony in which fraud is an essential element.

2. procures or attempts to procure a sales agent or broker license by fraud, misrepresentation, or deceit or by making a material misstatement of fact in an application for a license.

3. engages in misrepresentation, dishonesty, or fraud when selling, buying, trading, or leasing real property in the name of the license holder or his or her spouse, parent, or child.

4. fails to honor a check issued to the Commission, within a reasonable time (10 calendar days), after the Commission has sent a request for payment to the license holder.

5. fails or refuses to produce documents, books, or records that are in the license holder’s possession and relate to a real estate transaction conducted by the license holder, for inspection by the Commission or a Commission representative.

6. fails to provide information requested by the Commission that relates to a formal or informal complaint, within a reasonable time.

7. fails to surrender to the owner a document or instrument that is requested by the owner and that is in the license holder’s possession.

8. fails to use a promulgated contract form.

9. fails to notify the Commission, not later than the 30th day after the date of a final conviction or the entry of a plea of nolo contendere, that the person has been convicted of or entered a plea of nolo contendere to a felony or a criminal offense involving fraud.

10. disregards or violates The Real Estate License Act.

1101.652 (b) - Grounds for Suspension or Revocation of License While Acting as a Broker or Sales Agent

Under Part (b), the Commission may suspend or revoke a broker or sales agent license or take other disciplinary action if the license holder, WHILE ACTING AS A BROKER OR SALES AGENT, violates any provisions of Section 1101.652(b)(1 through 33).
Under Section 1101.652(b), the license may be suspended or revoked if the license holder:

1. acts negligently or incompetently.
2. engages in conduct that is dishonest or in bad faith or that demonstrates untrustworthiness.
3. makes a material misrepresentation to a potential buyer concerning a significant defect, including a latent structural defect, known to the license holder that would be a significant factor to a reasonable and prudent buyer in making a decision to purchase real property.
4. fails to disclose a defect that is known to the license holder to a potential buyer.
5. makes a false promise that is likely to influence a person to enter into an agreement when the license holder is unable or does not intend to keep the promise.
6. pursues a continued and flagrant course of misrepresentation or makes false promises through an agent or sales agent, through advertising, or otherwise.
7. fails to disclose representation and make clear to all parties to a real estate transaction the party for whom the license holder is acting.
8. makes a secret profit by receiving compensation from more than one party to a real estate transaction without the full knowledge and consent of all parties to the transaction.
9. fails to account for or remit money (within a reasonable time) that is received by the license holder and that belongs to another person.
10. commingles money that belongs to another person with the license holder's own money.
11. pays any portion of a commission or a fee to an unlicensed person or divides a commission or a fee with a person other than a license holder or a real estate broker or sales agent licensed in another state for compensation for services as a real estate agent.
12. fails to specify a definite termination date in a contract, such as commission agreements (listing agreements and buyer representation agreements). This does not pertain to a contract to perform property management services.
13. accepts, receives, or charges an undisclosed commission, rebate, or direct profit on an expenditure made for a principal.
14. uses a lottery to solicit, sell, or offer for sale real property.
15. uses deceptive practices to solicit, sell, or offer for sale real property.

16. acts in a dual capacity as broker and undisclosed principal in a real estate transaction.

17. guarantees future profits or authorizes or permits a person to guarantee that future profits will result from a resale of real property.

18. places a “for sale” sign on real property without permission or without obtaining the written consent of the owner of the real property or the owner’s authorized agent.

19. offers to sell or lease real property without permission, knowledge, or consent of the owner of the real property or the owner’s authorized agent.

20. offers to sell or lease real property on different terms that are not authorized by the owner of the real property or the owner’s authorized agent.

21. tries to induce a party to break a contract (contract of sale or lease) for the purpose of substituting a new contract.

22. tries to “go around an agent” and negotiate directly with a principal (owner, landlord, buyer, or tenant) knowing that another broker has an exclusive agency agreement with the principal in connection with the transaction.

23. publishes or causes to be published deceptive or misleading advertisements (includes newspaper, radio, television, Internet, or display ads) or fails to identify the person placing the ad as a licensed broker or agent.

24. creates inaccurate invoices or statements by withholding or inserting information into a statement of account or invoice.

25. publishes or circulates an unjustified or unwarranted threat of a legal proceeding or other legal action.

26. sponsors an unlicensed person to act as a license holder.

27. aids, abets, or conspires with another person to circumvent the provisions of The Real Estate License Act.

28. fails or refuses to provide a copy of a document relating to a real estate transaction to a person who signed the document.

29. fails to advise buyers of the importance of title insurance in writing before the closing of a real estate transaction or that buyers should have the abstract covering the real estate that is the subject of the contract examined by an attorney chosen by the buyer.
30. **fails to deposit escrow funds**, within a reasonable time, received as an escrow agent in a real estate transaction in trust with a title company or in a custodial, trust, or escrow account maintained for that purpose.

31. **improperly disburses trust funds** before the completion or termination of the real estate transaction.

32. **illegally discriminates** against an owner, potential buyer, landlord, or potential tenant on the basis of race, color, religion, sex, national origin, or ancestry, including directing a prospective buyer or tenant interested in equivalent properties to a different area based on the race, color, religion, sex, national origin, or ancestry of the potential owner or tenant.

33. **disregards or violates The Real Estate License Act.**

**1101.653 - Grounds for Suspension or Revocation of a Certificate of Registration**

The Commission may suspend or revoke a certificate of registration or take other disciplinary action if the certificate holder violates any provisions of Section 1101.653. The certificate holder must not engage in dishonest dealing, fraud, unlawful discrimination, or a deceptive act; make a misrepresentation; act in bad faith; or demonstrate untrustworthiness.

The certificate holder’s certificate of registration can be suspended or revoked by failing to give a written notice to a party to a transaction before the person is obligated to sell, buy, lease, or transfer a right-of-way or easement.

**Required Contents of Written Notice**

- Name of the certificate holder
- Certificate number
- Name of the person the certificate holder represents
- Statement advising the party that the party may seek representation from a lawyer or broker in the transaction
- Statement generally advising the party that the right-of-way or easement may affect the value of the property

**1101.654 - Unauthorized Practice of Law**

A licensee cannot provide legal counsel to his or her client or create his or her own forms. A licensee may complete a contract form that may bind the sale, exchange, option, lease, or rental of any interest in real property. The forms used in real estate transactions must have been prepared by the property owner, prepared by an attorney, or promulgated by the Texas Real Estate Commission.
Subchapter N - Enforcing The Real Estate License Act

The Real Estate License Act is only effective if it can be enforced. The Commission can only investigate non-licensed persons, but it can discipline licensed persons. The Commission enforces the provisions of The Real Estate License Act and has the power to restrict, suspend, or revoke a real estate license. Some violations may result in civil injunctions, criminal prosecutions, or substantial fines. When the Commission investigates complaints that may involve criminal activities, it is the duty of the local district attorneys to prosecute all criminals in their respective counties.

The Commission must follow the established legal procedures found in the Administrative Procedure Act to discipline licensees.

Complaints

A person who has been wronged by a licensee while acting as an agent, may file a complaint with TREC. In order to investigate, TREC must have a signed, written complaint that provides reasonable cause for an investigation. The complainant (person who made the complaint) is notified by mail that the complaint was received.

The next step is to determine if TREC has jurisdiction and whether there is reason to believe a violation may have occurred. For example, the complaint must involve a person or company under the regulatory jurisdiction of TREC and according to the statute of limitations the transaction must be 4-years old or less.

Complaints the Commission Investigates

- Real estate brokers and salespeople
- Real estate inspectors
- Approved education providers and instructors
- Residential service companies
- Timeshare plans
- Unlicensed activity that requires a real estate license
- Transactions that are 4 years old or LESS

Because the Commission does not regulate mortgage companies, new home builders, or title companies it does not investigate complaints against them. Additionally, the Commission does not investigate complaints regarding sellers or buyers who are not also licensed, commission or other disputes between licensees, and complaints regarding transactions that are MORE than 4 years old.
If TREC does not have jurisdiction in the matter or the complaint does not reflect a possible violation, a letter is sent to the complainant, stating that no investigation will be conducted and explaining the reason why.

A complaint that names a licensed real estate sales agent is also a complaint against the broker or designated broker sponsoring the sales agent at the time of any alleged violation.

The designated broker is responsible for all real estate brokerage activities performed by, on behalf of, or through a business entity. A complaint that names a business entity licensed as a broker is also a complaint against the designated broker at the time of any alleged violation.

**Informal Hearing**

Sometimes, the Commission employs an informal hearing of a contested case, which, if utilized, may expedite disciplinary matters and avoid formal hearings. These informal dispositions must provide the complainant and the license holder the opportunity to be heard. They require the presence of a public member of the Commission for a case involving a consumer complaint, and at least two staff members of the Commission with experience in the regulatory area that is the subject of the proceeding. [§1101.660].

**Temporary Suspension**

TREC’s presiding officer for a case involving a consumer is required to appoint a disciplinary panel, consisting of 3 commission members, to determine whether a person’s license to practice should be suspended temporarily. If the disciplinary panel determines that the licensee constitutes a threat to the public by continuing to practice, or the licensee constitutes a continuing threat to the public welfare, the panel will temporarily suspend the person’s license. [§1101.662].

**Investigation**

If the Enforcement Division determines that the complaint is of a serious nature and that a violation of law may have occurred, an investigation will be opened. Letters are sent to the complainant and to the person against whom the complaint was filed (respondent), informing them that an investigation has been initiated. The respondent is any person, licensed or unlicensed, who has been charged with violating a law administered by the Commission or a rule or order issued by the Commission.

An investigator will interview the complainant, the respondent, and any pertinent witnesses, either by telephone or in person. The investigator will
also gather copies of any documents relevant to the case. If necessary, the investigator may conduct an on-site investigation of the respondent’s place of business or the location where the alleged violation occurred. If anyone involved in the investigation is reluctant to testify or supply requested records and documents, the Commission has the authority to subpoena the witnesses or documents. [§1101.157].

After the investigation is complete, the investigator submits a detailed report of the facts in order to determine the appropriate resolution of the case. If it is determined that formal enforcement action is not warranted, due to insufficient evidence or other reasons, the case is closed by issuing a closing letter. Sometimes a warning letter is sent to the respondent, recommending that he or she come into compliance with the applicable law. However, after investigation of a possible violation and the facts surrounding that possible violation, if the Commission determines that a violation has occurred, the Commission may issue a written Notice of Alleged Violation.

**Notice of Alleged Violation**

The **Notice of Alleged Violation** (NOAV) is a notice that the person violated TREA or a TREC Rule.

**Information Included in the Notice of Alleged Violation**

- Brief summary of the alleged violation(s)
- Statement of the amount of the penalty and/or sanction recommended
- Statement of the right of the respondent to a hearing

Within 20 days of receiving the NOAV, the respondent may accept the determination of the Commission, including penalties and/or sanctions, or make a written request for a hearing. Sanctions include any administrative penalty, disciplinary or remedial action imposed by the Commission for violations of TREA or the Rules adopted by the Commission.

If the respondent requests a hearing, the Commission shall request the setting of a hearing, an assignment of an administrative law judge, and/or the setting of an alternative dispute resolution proceeding. An **administrative law judge** is a judge employed by the State Office of Administrative Hearings. An **alternative dispute resolution** is an alternative to formal hearings and judges. It is the voluntary settlement of contested matters through the facilitation of an impartial third-party.
Formal Hearings
If the Commission proposes to suspend or revoke a person’s license or certificate of registration, the person is entitled to a hearing before the Commission or a hearings officer. A formal hearing is held according to the Administrative Procedure Act. In the hearing, the Commission is the complainant and brings the charges. The licensee, known as the respondent, may appear with or without an attorney. The Commission presents the case to a hearing examiner who issues a proposed decision based upon the findings. If a real estate is the respondent, the Commission notifies the sales agent’s sponsoring broker of the hearing.

TREC ultimately makes the final decision and may choose to accept or reject the proposed penalty from the hearings examiner. Sometimes the charges against the respondent are dismissed, but if the charges are sufficiently serious, the license of the respondent is suspended or revoked. TREC decides what disciplinary actions to take on a licensee depending on the severity of the violation.

Types of Discipline
Disciplinary action could result in a reprimand, suspension, or revocation of a license, as well as an administrative penalty of up to $5,000 per violation per day. [Rule §535.191(e)]. However, each case is unique, and there are several levels of discipline. Violations don’t always end in loss of license. Sometimes, additional education is a requirement for someone who breaks the rules.

Advisory Letter
An Advisory Letter is an informal disciplinary action given in many situations, but is generally sent when a licensee was unaware of a requirement but there are no prior consumer complaints, or when the violation does not involve great harm or continued consumer harm.

Formal Reprimand
A Formal Reprimand is the next level of discipline. Sometimes a Formal Reprimand is paired with a small administrative penalty or an education requirement.

Suspension, Revocation, and Surrender
Whenever a license is suspended, revoked, or surrendered, the violation is more serious.
A person who has a sales agent license must notify his or her sponsoring broker in writing that his or her license will be suspended (or revoked) prior to the suspension taking effect.

If a broker license is going to be suspended (or revoked), the broker must notify in writing any sales agent that he or she sponsors, or any business entity for which the person is designated broker that the broker’s license is going to be suspended. Each sponsored sales agent cannot engage in any real estate brokerage activities until he or she associates with another broker and files a Change of Sponsorship form with the Commission. A business entity must designate a new broker and file a Change of Designated Broker form with the Commission.

A person whose license has been suspended (or revoked) may not perform, attempt to perform, or advertise to perform any act for which a license is required, during the period of any suspension.

A person whose license has been suspended (or revoked) may not assign a listing agreement, buyer’s representation agreement, or other personal service contract to another broker without first obtaining the written consent from the principal(s) in the contract.

**Probated Suspension**

Probated suspension is an active licensee but the license holder has restrictions on the license. The Commission may require a license holder whose license suspension or revocation is probated to report regularly to the Commission on matters that are the basis of the probation, limit practice to an area prescribed by the Commission, or continue to renew professional education until the license holder attains a degree of skill satisfactory to the Commission in the area that is the basis of the probation. [1101.656].

Probation is very case specific. For example, a sales agent may not be allowed to apply for a broker license or a broker may not be allowed to handle trust funds.

**Subchapter O - Administrative Penalties**

One of the disciplinary actions imposed by the Commission is requiring a licensee to pay an administrative penalty. The administrative penalties are described in the Texas Real Estate Commission Rule 535.191. Depending on the violation, the penalties range from $100 to $5,000 per violation per day.
Example: The administrative penalty for failure to use the appropriate promulgated form ranges from $500 to $1,500 per violation per day.

Failing to give consumers a notice stating the availability of payment from the Real Estate Recovery Trust Account, could subject the licensee to administrative penalties ranging from $1,000 to $5,000 per violation per day.

When determining the amount of the penalty, the considers the seriousness of the violation, including the nature, circumstances, extent, and gravity of the prohibited act; the history of previous violations; the amount necessary to deter a future violation; and any of the efforts made by the license holder to correct the violation.

A license holder may request a hearing. If the court agrees that a violation occurred, it may uphold or reduce the amount of the administrative penalty. It could order the license holder to pay the full or reduced amount of the penalty. If the license holder does not pay the administrative penalty, the may refer the matter to the attorney general for collection of the penalty. However, if the court does not agree that a violation occurred, it will order that an administrative penalty is not owed by the license holder.

**Subchapter M - Real Estate Recovery Trust Account**

The Real Estate Recovery Trust Account (Recovery Fund) is a separate account funded through collection of a fixed amount from each license fee. The Real Estate Recovery Trust Account is managed by the director of the Staff and Support Services Division of the Commission. It assures the payment of otherwise non-collectable court judgments against licensees who have committed fraud, misrepresentation, deceit, or conversion of trust funds in a transaction.

**Real Estate Recovery Trust Account Notice**

Every licensee and certificate holder must give consumers a notice stating the availability of payment from the Real Estate Recovery Trust Account.
The notice can be made on a written contract, a brochure distributed by the licensee, on a sign prominently displayed in the place of business, on a bill or receipt provided by the licensee, or it can be prominently displayed on the licensee’s Internet website.

The notice must include any information required by the Commission as well as the Commission’s name, mailing address, and telephone number.

Claim for Payment

When certain conditions are met, a person who obtains a judgment for actual damages caused by the misconduct of real estate license holders can obtain reimbursement from the Recovery Account if the license holder is unable to pay the judgment. [§1101.601]. A person who has an uncollectable judgment against a real estate broker may file a verified claim in the court and apply for an order directing payment out of the fund. A hearing is then conducted. At the hearing, the claimant must show that its prior judgment is against a licensed real estate broker or sales agent who caused the claimant’s damages while acting as a broker or sales agent.

Payment Amounts

A person with a qualifying judgment may seek reimbursement from the Recovery Account for actual and direct loss to a statutory maximum. Currently the amount paid will be $50,000 per transaction, with a possible total aggregate maximum of $100,000 per licensee.

In the event of multiple valid pending claims against a licensee or certificate holder in excess of the maximum amount, the claims will be prorated. First the actual damages are paid, followed in order by interest, attorney fees, or court costs. If the total of the eligible actual damages of all claims exceeds the maximum that may be paid from the Recovery Trust Account, the actual damages are prorated among the claimants, and no interest, attorney fees, or court costs are paid. [§1101.610].

Suspend or Revoke a License

If the Commission pays a judgment on behalf of a broker or sales agent, the license may be suspended or revoked. A suspended license will only be reinstated after full reimbursement, plus interest, is repaid to TREC. [§1101.655].
Subchapter P - Other Penalties and Enforcement Provisions

If the Commission determines that a person has violated or is about to violate The Real Estate License Act, the attorney general or the district attorney in the county in which the violation has occurred may file an injunction to temporarily or permanently stop the activity or may issue a cease and desist order.

Example: Practicing real estate without an active license is a criminal offense, specifically, a Class A misdemeanor punishable by confinement of up to one year in a county jail and a fine of up to $4,000.00. [§1101.756] TREC can also pursue administrative penalties not to exceed $5,000 for each violation. Each day a violation continues can be considered a separate violation for imposition of the administrative penalties. [§1101.702]. The Commission may also issue a “cease and desist” order. [§1101.759]. Finally, as a State Agency represented in civil court proceedings, TREC can obtain injunctive relief, including court costs and attorneys fees incurred in obtaining such relief. [§1101.751].

An unlicensed person who receives a commission as a result of acting as a broker or sales agent is liable to an aggrieved person (most likely the seller) for a penalty of not less than the amount of money received or more than 3 times the amount of money received. The aggrieved person may file a private lawsuit to recover a penalty.

Subchapter Q - General Provisions Relating To Liability Issues

If TREC suspends or revokes a license holder’s real estate license or takes other disciplinary action, the license holder may still be subject to civil or criminal liability. [§1101.801].

License holders are not civilly or criminally liable because they failed to inquire about, make a disclosure relating to, or release information relating to whether a previous or current occupant of real property had, may have had, has, or may have AIDS, an HIV-related illness, or HIV. [§1101.802].

A licensed broker is liable to TREC, the public, and the broker's clients for any conduct engaged in under this chapter by the broker or by a sales agent associated with or acting for the broker. [§1101.803].
A license holder or nonprofit real estate board or association that provides information about real property sales prices or the terms of a sale for the purpose of facilitating the listing, selling, leasing, financing, or appraisal of real property is not liable to another person for providing that information unless the disclosure of that information is specifically prohibited by statute. [§1101.804].

A party to the transaction (prospective buyer, seller, trustee, guardian, executor, administrator, receiver, or attorney-in-fact) is not liable for a misrepresentation or a concealment of a material fact made by a license holder in a real estate transaction unless that person party knew of the falsity of the misrepresentation or concealment and failed to disclose the party's knowledge of the falsity of the misrepresentation or concealment. A license holder is not liable for a misrepresentation or a concealment of a material fact made by a party to a real estate transaction unless the license holder knew of the falsity of the misrepresentation or concealment; and failed to disclose the license holder's knowledge of the falsity of the misrepresentation or concealment. [§1101.805].

A principal may be liable for the payment of a commission and the broker may bring a lawsuit against a principal to collect it. First, the broker must have been licensed at the time the commission was earned. Next, the promise to pay a commission must be in writing and signed by the person responsible for paying the commission (usually the seller or landlord). Finally, the broker or his or her sales agent must have provided the buyer with the required Notice to Prospective Buyer. This notice advises the buyer of the importance of having the abstract of title examined by an attorney or obtaining a title insurance policy. [§1101.806].

**SUMMARY**

In order to obtain a real estate license, a person must complete qualifying courses and pass a real estate license examination. Once licensed, brokers and must complete continuing education courses to renew their licenses. TREC supervises the education, licensing, and conduct of real estate professionals.

In addition to regulating real estate licensees, TREC licenses real estate inspectors, residential service companies, real estate schools, easement or right-of-way agents and registers timeshare properties.

Each real estate brokerage office must have one responsible broker who may have or broker associates working out of the office. A brokerage may be incorporated or a partnership.
The Texas Real Estate Commission is empowered to adopt rules to enforce the real estate law. Duly adopted rules become provisions of The Real Estate License Act and, in effect, have the force and authority of the law itself. Therefore, all licensees and prospective licensees should be thoroughly familiar with the Texas Real Estate Commission's rules. All licensees and prospective licensees should be considered in conjunction with the law, as they specifically outline procedures directed and authorized by the statutes. To avoid censure, licensees must follow The Real Estate License Act (TRELA) and the rules of the Texas Real Estate Commission (TREC).