



Broker Responsibility Course



2025-2026

Foreword

This broker responsibility curriculum was developed by the Texas Real Estate Commission (TREC) and the Texas Real Estate Research Center at Texas A&M University (the Center) with the assistance of a content writing group using information from publications, presentations, and general research.

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Broker Responsibility

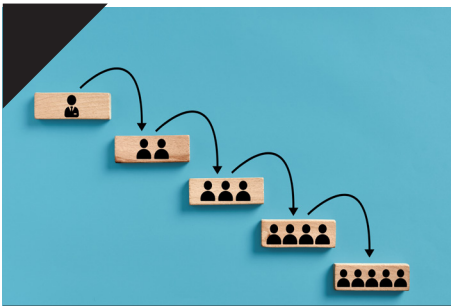
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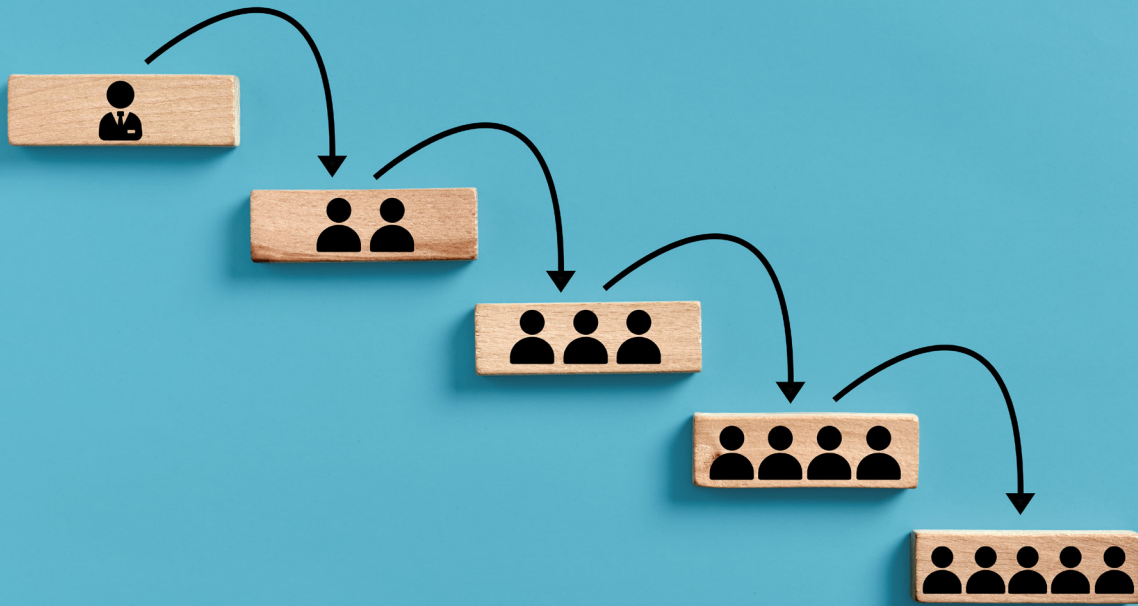


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Chapter 1

Brokerage Supervision and Structure



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Learning Objectives

After this chapter, you will be able to

- ✓ Describe the layers of supervision that exist within a brokerage and the education required to serve in those positions.
- ✓ Explain the requirements of TREC Rule 535.2(i)(5) as it relates to the coaching and assistance of sponsored sales agents.
- ✓ Design a brokerage structure based on the requirements in TREC Rule 535.2 regarding competency and experience.



Who's in Charge?



President Harry S. Truman famously displayed a sign on his desk with the slogan “The buck stops here!” A reference to it even made its way into his farewell address in January 1953: “The president—whoever he is—has to decide. He can’t pass the buck to anybody. No one else can do the deciding for him. That’s his job.”

If you are a broker, the buck stops with you.

However, Texas law allows flexibility in how brokers can structure their businesses, including a framework that creates layers of supervision without limits on the number of agents sponsored or delegated supervisors.

For brokers, “the buck stops here” means you are not only responsible for making decisions about your business, but also responsible for the actions of all the sales agents you sponsor.

If an agent you sponsor is named in a complaint, the TREC Enforcement Division will contact you. At best, you’ll be able to show your brokerage policies and procedures and how you apply them in your brokerage to prove the agent wasn’t following your direction. At worst, you’ll be facing disciplinary action, too.

How Can One Broker *Responsibly* Supervise a High Number of Sales Agents?

Brokers who choose to sponsor many sales agents must establish business practices that meet the requirements of The Real Estate License Act (TRELA). One method of doing so is through *delegated supervision*.

The Role of Delegated Supervisors

TREC Rule 535.2(e) provides that a broker may delegate to another license holder—including sales agents—the responsibility to assist in administering compliance with TRELA and TREC Rules. Any license holder who leads, supervises, directs, or manages a team must be delegated as a supervisor.

A delegated supervisor is not just a title and comes with requirements. A broker must notify TREC within 30 days of each delegated supervisor within the brokerage if the delegation has lasted or is expected to last more than three consecutive months, which can be done online through trec.texas.gov. Delegated supervisors must also take the Broker Responsibility Course for any license term during which they are acting as a delegated supervisor, since understanding the broker-agent relationship is fundamental to successfully supervise sales agents when they engage in brokerage activity on behalf of the sponsoring broker.

Delegated supervisors may have knowledge about certain types of real estate transactions and supervise all sales agents engaged in those specific transaction types. For example, a broker could have a delegated supervisor who oversees agents new to the brokerage, or a delegated supervisor well versed in farm and ranch transactions and supervises all sales agents who engage in such transactions. That

While the ultimate responsibility of all authorized brokerage activity of a sponsored agent falls on the designated broker, brokers can have an unlimited number of delegated supervisors.

same brokerage could also utilize teams, so long as the team lead is a delegated supervisor over the other team members.

The Role of Teams

There are many brokerages that authorize their sponsored sales agents to form teams, which may allow license holders to focus on certain types of brokerage activity.

“Teams are a really big issue in our industry because they run like small brokerages without appropriate supervision.”

This sentiment is one we often hear. As with anything, there can be downsides to teams if license holders aren’t adequately supervised. This is why TREC Rule 535.2(e) requires all team leads to be named as delegated supervisors who must take the Broker Responsibility Course.

Just like any other delegated supervisor, a team lead should be knowledgeable about broker responsibility and understand the laws and regulations associated with brokerage activity, including what will be covered in this course.

Who's Who at a Brokerage



Broker

Brokers may work independently and represent buyers, sellers, landlords, and tenants in real estate transactions. A broker may also sponsor sales agents, serve as a designated broker for a licensed business entity, or associate with other brokers.



Broker Associate

A broker who works with, or “associates,” with another broker. Broker associates may choose this role because they prefer the other broker’s tools, their brand recognition, or lead opportunities. Broker associates have a broker’s license and are not sponsored by another broker.



Delegated Supervisor

Any license holder—sales agent or broker—who leads, supervises, directs, or manages other license holders within a brokerage.



Designated Broker

A broker with managing authority over a licensed business entity who is selected, or designated, to act on behalf of the entity. A licensed business entity cannot engage in real estate brokerage activity without a designated broker.



Sales Agent

Sales agents must be active and sponsored by an active licensed broker to conduct real estate brokerage activity. Sales agents represent their sponsoring broker.

Required Oversight of Sales Agents' First-Time Brokerage Activities

Brokers must be active in their sponsorship of sales agents and ensure their agents are competent in their respective areas of practice. And while the obligation to provide coaching and assistance has been part of TREC rules for some time, TREC Rule 535.2(i)(5) was amended in 2023 to increase brokerage oversight. Specifically, the number of times a broker must ensure assistance and coaching for a new brokerage activity performed by an agent increased from one time to three times.

This is a minimum standard, and a sponsoring broker could always require more coaching

and assistance to sales agents early in their careers. In fact, it is a best practice to exceed this minimum and provide coaching and assistance to all sponsored sales agents throughout their time at your brokerage.

TREC Rule 535.2(i)(5) also addresses another minimum. It states that in addition to ensuring each sponsored sales agent complete their required continuing education, each sponsored sales agent should receive additional educational instruction the broker may deem necessary to obtain and maintain competence in the scope of the sponsored sales agent's practice.



How Do Brokers Coach and Assist Agents?

Being an active broker means you know your sponsored agents' areas of practice and their experience levels. A brand-new agent who has never practiced before means your coaching and assistance will be more extensive than for a seasoned sales agent under your supervision.

However, even a seasoned sales agent may be engaging in a type of brokerage activity for the first time. For example, a sales agent who moved to your area from another part of the state where she only sold rural property will require coaching and assistance should she expand her area of practice to another type of brokerage activity. It doesn't matter if the sales agent spent 10 years in one area of practice—the moment she begins a new type of brokerage activity, TREC rules require the broker to provide coaching and assistance.

Examples of Coaching and Assistance

Here are some real-life suggestions from practicing brokers to help you form your brokerage's best practices.

Practice, practice, practice. Have a competent license holder walk through a hypothetical transaction from start to finish. Coach the sales agent through an actual transaction in the same way.

Show-and-tell. Have a competent license holder take a new sales agent when meeting with clients or showing properties. That competent license holder can provide some real-world insight into what they have seen over the years and what works best when conducting a transaction.

Boost your training opportunities. Develop training modules available to all sponsored agents that focus on different aspects of brokerage activity and the brokerage's expectation of those sales agents when engaging in that type of brokerage activity.

This type of approach could also allow for a sponsoring broker to provide additional training in overall brokerage activity competency, which is in line with the competency component of TREC Rule 535.2(i)(5).

Study the contracts. Require each sponsored sales agent to thoroughly review TREC contract forms. Check for compliance and competency after they review.

This approach benefits more than just agents new to practice and helps develop competent sales agents, as also required under TREC Rule 535.2(i)(5).

The possibilities are endless, but one thing is for sure: The more effort a sponsoring broker puts into providing excellent coaching and assistance means better service for your clients and enhanced consumer protection.

One Rule Fits All

The requirement to responsibly sponsor a sales agent applies to all brokerages, regardless of size. There are small brokerages that fail at this and there are large brokerages that excel at this. Ultimately, it comes down to broker responsibility and brokerage structure.

Similarly, having the right delegated supervisors in place is the key to success and compliance.

It is the responsibility of the sponsoring broker to ensure a business structure that is aimed at compliance with the law and consumer protection.



Do brokers have to personally provide coaching and assistance?

No. Brokers do need to ensure a license holder competent in a specialty is the person providing coaching and assistance for those specific specialties. This can be a great opportunity to structure your business with competent delegated supervisors who can provide a better level of coaching and assistance to your sponsored sales agents—perhaps even more skillfully than you.

How does a broker or sales agent track receipt of coaching and assistance?

There are several options, but written documentation will always be a safe bet. For example, both the sponsoring broker and the sales agent could maintain written records of the coaching and assistance provided on each transaction. That way, each can demonstrate exactly when and how they received the coaching and assistance and can tie back to the first three times that sales agent engaged in that type of brokerage activity.

Build a Brokerage

There are many options for building a brokerage. Successful brokerages contain appropriate layers of management and supervision, as well as coaching and assistance to sponsored agents.

How would you build a successful brokerage using these 11 characters?

No single brokerage structure is correct. Use the blank charts on pages 14 and 15 to organize who's who at your brokerage.

Extra fields can be used for alternative structures.



XOCHITL ARREDONDO

The majority of her clients' preferred language is Spanish.

Her expertise lies in first-time home buying.

She completes an average of 10 transactions a year.

She's been licensed for 40 years.



JOSEF TEDI

Fluent in six languages.

Licensed as a broker for 10 years.

Conducts business all over Texas.

Maintains sales agent license in New Mexico for four years now.



JOAN COHEN

A broker of 15 years primarily in commercial retail real estate.

She's known as the go-to.

She fields a lot of questions, typically from newbies.



NEE WINN

Is working on networking and familiarizing herself with the market.

She hasn't yet made a sale.



FREDA QUINN

Licensed for 12 years; became a broker last year.

Focused on property management.

A working mom who does real estate part time.

Background is in advertising.



RANE CHUCK

His experience covers transactions located in city outskirts.

He's knowledgeable in farm, ranch, and land sales.

He has been licensed for eight years.



VAN VETT

Has spent all four years of her career at the same brokerage.

She's built a successful list of returning clients with a persistent networking strategy.

Her strength:
Geographic competency.



DONIE WHITE

Recently acquired broker's license after encouragement from a colleague.

Leads a team of 10 agents in residential real estate.

Licensed for nine years.

Has one disciplinary action two years ago related to advertising and IABS. Took CE and paid \$200 fine.



WENDELL HOLLAND

Has two years of experience.

This is his second career.

His qualities include a strong confidence and an independent work ethic, which can get the better of him sometimes.



TEX ASHTON

Joined the brokerage a month ago after passing the license exam.



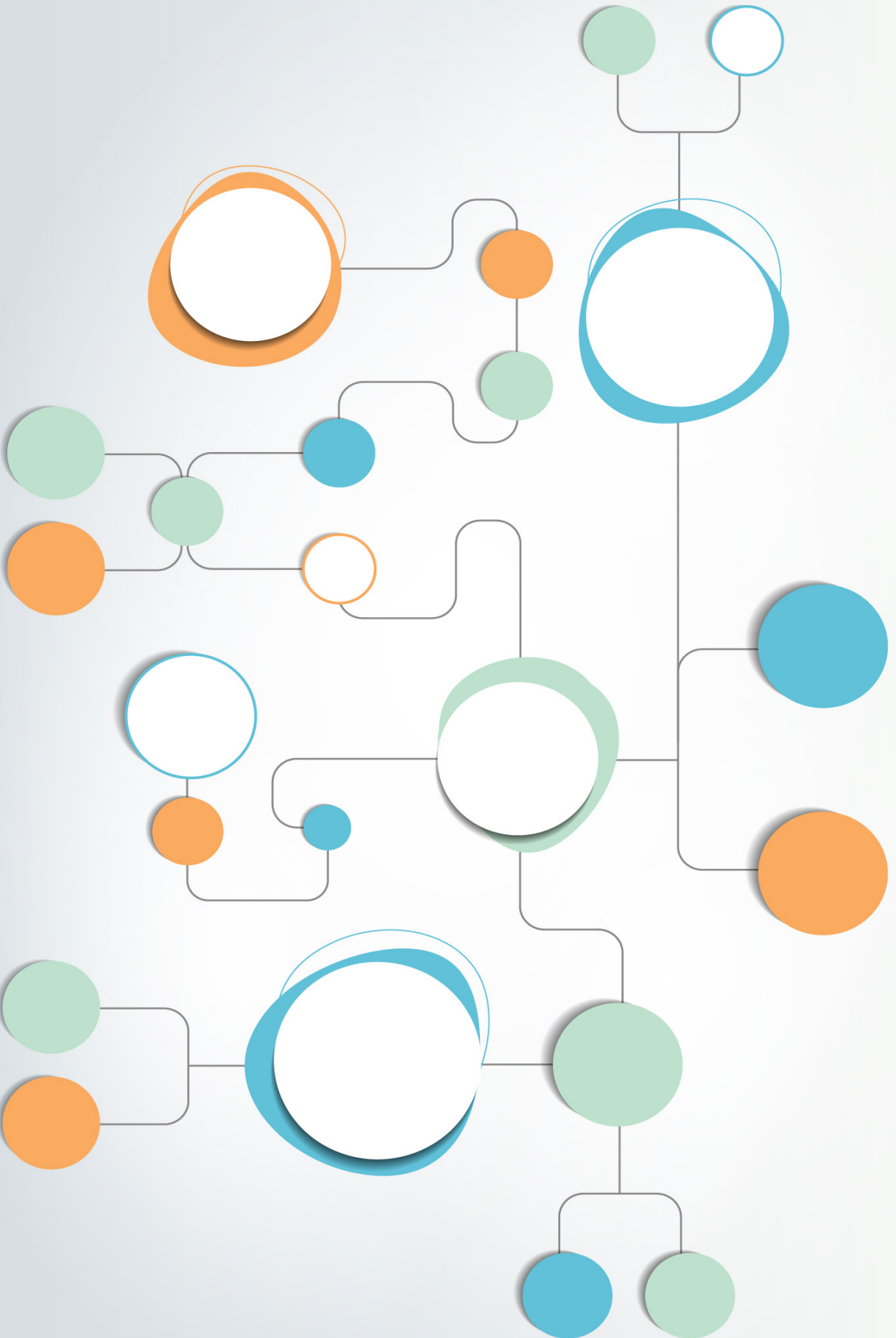
TRESA FRANKLIN

Both sales agent and appraiser whose expertise lies in commercial properties.

She's looking to branch out into property management.

She's been licensed for eight years.

Build a Brokerage



Build a Brokerage



BROKER																			
BROKER ASSOCIATE																			
SALES AGENT																			
DELEGATED SUPERVISOR																			
TEAM LEAD																			
MENTOR																			
MENTOR																			
MENTOR																			

Mentor Activity

Using the brokerage structure developed by your group, use the chart to assign mentors to Donie, Tex, and Wendell. Be prepared to discuss how you reached your decision for each individual.

Working for Multiple Brokerages: What Transaction Coordinators and Showing Agents Are Allowed to Do in Texas

The Real Estate License Act (TRELA) says a licensed sales agent may not engage in real estate brokerage activity unless that sales agent is sponsored by a licensed broker and is acting for that broker.

In Texas, transaction coordinators and showing agents are frequently used by brokerages as part of their business model, but sometimes these models entail working for other brokerages. Here is what “acting for” your broker means in these situations.

Transaction Coordinators

Transaction coordinators, sometimes called TCs, are not defined nor mentioned in TREC rules and statutes. In practice, transaction coordinators typically handle administrative tasks related to a real estate transaction, so they would not be required to hold a real estate license. Even so, there is a risk that the activities of a transaction coordinator might blur the line between what is considered brokerage activity.

Often, the simplest way to reduce the risk of engaging in unlicensed brokerage activity and facing disciplinary action is to hold an active Texas real estate license.

If you are a licensed sales agent and you engage in brokerage activity while providing transaction coordinator services (even if inadvertent), you must get written authorization from your sponsoring broker first and only act within the scope of that authorization.

Showing Agents

A showing agent is not defined under Texas law, either. A showing agent is typically hired by a buyer’s agent to show a property to a



prospective buyer. This arrangement might arise because the buyer’s agent is out of town or unavailable during a particular time. The showing agent may or may not receive a fee for their services.

Showing a property for compensation (or with the expectation of receiving compensation) is considered real estate brokerage activity, so an individual must have an active real estate license to do so. TREC Rule 535.4(c) says showing a property includes “causing or permitting the property to be viewed by a prospective buyer or tenant, unlocking or providing access onto or into a property for a prospective buyer or tenant, and hosting an open house at the property.”

If a licensed sales agent shows a property listed by another brokerage for compensation, the sales agent must obtain written authorization from the agent’s sponsoring broker prior to the showing. Any compensation received must be paid to the agent’s sponsoring broker unless written consent has been given pursuant to TREC Rule 535.3, Compensation to or Paid by a Salesperson.



Can You Use Unlicensed Individuals to Help With Your Texas Real Estate Transactions? It Depends.

Real estate transactions are complex, so many brokers and sales agents engage the help of assistants to handle the administrative details. Regardless of an assistant's professional title—unlicensed assistant, administrative assistant, office manager, and transaction coordinator are popular—the real estate license status determines what type of activities they can legally perform in Texas.

Why Does Having a Texas Real Estate License Matter?

The Real Estate License Act (TRELA) prohibits individuals from engaging in real estate brokerage activity without an active real estate license. Someone who conducts real estate brokerage activity without a license, as well as a broker or sales agent who employs that unlicensed individual, commits a Class A misdemeanor, which is a fine up to \$4,000 or confinement in jail for a term up to

one year, or both.

The Texas Real Estate Commission (TREC) may also take disciplinary action against a broker or sales agent who pays or associates with an unlicensed person who engages in activities that require a real estate license.

Which Activities Require a Texas Real Estate License?

TRELA requires a license for anyone who, in exchange for (or with the expectation of receiving) a commission or other valuable consideration, performs for another any of the activities listed in Section 1101.002(1)(A) of TRELA. Section 1101.005 of TRELA and TREC Rule 535.5 outline activities that do not require a license, while TREC Rule 535.4 further outlines what activities do require a license.

Pages 18 and 19 list some frequently asked questions and their answers about unlicensed assistants.

Can an unlicensed assistant make calls to determine whether a person is interested in buying or selling property?

No. An unlicensed assistant cannot make calls to determine whether a person is interested in buying, selling, or leasing property, even if it is to schedule a follow-up appointment with a license holder to discuss details.

Under TREC Rule 535.4(f), only license holders may solicit listings. Often referred to as “telemarketing,” in Tex. Atty. Gen. Op. H-1271 (1978), the attorney general concluded that a license was required for any such activities conducted in Texas.

Can an unlicensed assistant set appointments to show a listing?

Yes. An unlicensed assistant may arrange a showing appointment on behalf of the license holder who will show the property.

Can an unlicensed assistant unlock a door or otherwise allow access to a property?

No. *Show* includes causing or permitting a property to be viewed by a prospective buyer or tenant, unlocking or allowing access onto or into a property for a prospective buyer or tenant, and hosting an open house at a property. TREC Rule 535.4(c) says an individual must be licensed to show a property for sale or lease in all such scenarios.

Can an unlicensed assistant host an open house?

No. An unlicensed assistant cannot host an open house.

Can an unlicensed assistant answer questions about a listed property?

It depends. TREC Rule 535.5(f) allows unlicensed assistants to confirm information previously advertised about a specific property, such as the size or price. For example, the assistant might confirm that the particular property inquired about has three

From the Case Files



Keep the Codes to Yourself

A sales agent representing the buyer scheduled a showing.

- The agent provided the buyer the code to access the property.
 - The property owner provided the Commission with video taken by the doorbell camera that showed the buyer enter the property without the escort of a license holder.
- The agent now understands:
 - That a person must be licensed to show a property.
 - That an unlicensed person must be accompanied by a license holder at a showing and must not be given property access codes.

The agent was reprimanded, ordered to pay \$500, and ordered to complete the TREC Legal Update I and II courses.



She Got a Fee for Giving the Key

The license holder in this case was the listing agent. She provided a potential buyer with the key to access the property during an HVAC servicing appointment.

- The agent now understands:
 - A person must be licensed to show a property.
 - An unlicensed person must be accompanied by a license holder at a showing and must not be given property access codes.

The agent was reprimanded, ordered to pay \$500, and ordered to complete the TREC Legal Update I and II courses.

bedrooms and one bath. Confirming whether any compensation is being offered and if so, what amount, is also a term or detail an unlicensed assistant can provide.

If the individual asks follow-up questions that aren't included in the advertisement, or for other properties that might fit their preferences, the assistant should refer the individual to a license holder.

What tasks can an unlicensed assistant perform?

An unlicensed assistant may perform administrative tasks, including:

- Inputting data into a computer or typing contracts, but only as specifically directed by a license holder;
- Ordering supplies, scheduling maintenance, or performing other similar tasks that help keep the office running;
- Bookkeeping (however, under TREC Rule 535.146(c)(7), only a license holder may be authorized to withdraw or transfer money from a trust account);
- Training or motivating personnel or performing other similar tasks dealing with office administration and personnel matters (however, under TREC Rule 535.4(e), an unlicensed assistant may not direct or supervise others who perform real estate brokerage activity).

Can an unlicensed assistant review a contract?

No. An unlicensed assistant cannot review a contract or facilitate a transaction.

However, an unlicensed assistant can input data into a contract if specifically directed by a license holder.

Can an unlicensed assistant help arrange financing for a buyer?

It depends. While an unlicensed assistant may be able to perform some administrative tasks at the direction of a sales agent or broker, because mortgage brokers and loan originators are licensed by the Texas Department of Savings and Mortgage

Lending, any questions regarding the licensing requirements for persons dealing with financing issues should be directed to that agency.

Can an unlicensed assistant serve as a property manager for a rental property?

It depends. TREL A Section 1101.002(1)(A)(x) A says an individual must be licensed if, in exchange for (or with the expectation of receiving) a commission or other valuable consideration, the person leases a property or "controls the acceptance or deposit of rent from a resident of a single-family residential real property unit" for another person. Note that this means that TREC does not have jurisdiction over all types of property management, like commercial.

According to TREC Rule 535.4(h), a person controls the acceptance or deposit of rent if the person has the authority to any one of the following:

- Use the rent to pay for services related to management of the property.
- Determine where to deposit the rent.
- Sign checks or withdraw money from the account.

Many property management activities, such as bookkeeping and arranging for repairs, do not generally require a license.

Furthermore, TREL A Section 1101.005(7) and (8) generally exempts an on-site manager of an apartment complex, as well as an owner or the owner's employee who leases the owner's improved or unimproved real estate, from the license requirement.

How Brokers and Sales Agents Can Avoid Trouble When Using Unlicensed Assistants

Brokers should establish written guidelines and training dictating to both their agents and unlicensed personnel what is allowed and not allowed of unlicensed assistants. Always monitor unlicensed assistants closely and ensure they are not "directly" assisting others in buying, selling, or leasing property.

Chapter 2

Policies and Procedures



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Learning Objectives

After this chapter, you will be able to

- ✓ Articulate the importance of maintaining updated policies and procedures.
- ✓ Identify the types of records that TREC requires brokers to maintain.
- ✓ Describe the rules relating to trust accounts.
- ✓ Explain the difference between a business entity license and a business entity registration.
- ✓ Describe the process for replacing a brokerage's designated broker according to TREC Rule 535.124.



8 Reasons Policies and Procedures Are Essential to Your Brokerage

As you've learned so far, there are many ways you can structure your brokerage while following TREC rules and the law, but the foundation of every brokerage is in its policies and procedures. Here are eight reasons why.

Policies and procedures are required.

TREC Rule 535.2(i) requires sponsoring brokers (and designated brokers) maintain and keep current written policies and procedures.

This rule also defines what is required to be in those policies and procedures, though a broker can always add additional policies and procedures tailored to the broker's requirements for sponsored agents.

There are prewritten policies and procedures some license holders use that meet the requirements of TREC Rule 535.2, which can be a great starting point. Ultimately, a broker's policies and procedures are only as good as a broker's efforts to ensure all their specific policies are included, and they require their sponsored agents to be familiar with and adhere to the policies and procedures.

Policies and procedures outline the broker's requirements for sponsored agents.

As a sponsoring broker, you are responsible for all authorized acts of your sales agents. The brokerage's policies and procedures are the written record of which types of brokerage activity are authorized and expectations for competency, including geographic competency. These policies and procedures must also require a check and balance that sponsored sales agent have an active license at all times while engaging in brokerage activity.

Policies and procedures outline compensation structure in accordance with The Real Estate License Act (TRELA).

A brokerage's policies and procedures must include language that states compensation paid to a sponsored sales agent for brokerage activity is paid by, through, or with the written consent of the sponsoring broker. This ensures your sponsored agents are only being compensated for brokerage activity through their sponsoring broker.

Remember, all brokerage activity being conducted by sponsored sales agents is done in the broker's name. Structuring a compliant compensation plan can help the sponsoring broker ensure all brokerage activity conducted in the broker's name is done in compliance with TREL A and TREC rules.

Policies and procedures require sponsored agents to be notified of changes to laws and regulations and TREC contract forms. A sponsoring broker's policies and procedures must ensure that all sponsored sales agents are timely provided notice, prior to effective date, of any change to TREL A, TREC rules, or TREC contract forms. This requires the sponsoring broker to establish a written process for how these changes will be conveyed. Importantly, just providing notice of a change is likely not sufficient to ensure sponsored sales agents understand how those changes might affect their work. Sponsoring brokers must actively inform sponsored sales agents about these types of changes and explain what they mean.

Some resources that are available from the TREC website include articles explaining rule changes and statutory changes after each legislative session. TREC also makes redline versions of contract form changes available, which can be an invaluable teaching tool. License holders can also watch recordings of Commission and advisory committee meetings.

The above tools can assist a sponsoring broker ensure competency related to changes in laws, regulations, and contract forms; however, the only way to ensure competency in this area is to be an engaged broker and provide training on these changes. This not only benefits the brokerage in terms of compliance—it also protects the consumer.

Policies and procedures require sales agents to have current continuing education hours and receive coaching and assistance the first three times a sales agent engages in a new type of brokerage activity. As a sponsoring broker, you must have a process in place to ensure your sponsored agents are current with all continuing education requirements. Not only is this essential so they maintain active licenses, but it also improves the knowledge base of your sales agents and better protects the consumer.

As a sponsoring broker, you can expand on these requirements or stipulate which elective classes must be taken by your sponsored sales agents. This Broker Responsibility Course might be one you consider requiring your sponsored sales agents to take so they understand the

Take Your Policies and Procedures to the Next Level

Here are four best practices you can consider for your written policies and procedures.

Tailor the brokerage's policies and procedures to the scope of the brokerage's areas of practice.

Outline scope of brokerage activity that is and is not authorized by the brokerage. This is the language that will come in handy for you as a broker if you have a sales agent deviate from the policies and procedures and becomes the subject of a complaint. (Remember, you could be implicated in any complaint filed against the agents you sponsor.)

Review the brokerage's policies and procedures with each agent annually. The more proactive you are explaining the policies and procedures and the reasoning behind them, the more engaged and familiar your sponsored sales agents will be.

Be clear with your sponsored sales agents about exactly what your specific processes are (e.g., what is expected of a sales agent when it comes to file retention).

requirements of sponsoring brokers to their sales agents.

Policies and procedures must have language that includes the requirement to provide coaching and training to a sponsored sales agent who is conducting a type of brokerage activity for the first three times.

Importantly, the sponsoring broker does not have to be the one to provide such training; however, it must be a license holder who is competent in that area of brokerage activity.

Policies and procedures require language that ensures each sponsored agent complies with TREC advertising rules. TREC's advertising rules (535.154 and 535.155) are intended to protect the consumer. The most crucial component of these rules is the requirement that the broker's name be in the advertisement. The intent behind that requirement is so consumers can easily find out who the broker of record is should they need to contact them for any reason.

Ensuring compliance with advertising rules through your policies and procedures with as much detail or supervision as necessary means your sponsored sales agents are less likely to get an advertising complaint that automatically involves you as the broker. It also means that your clients will know exactly how to contact you so you can potentially resolve issues before they become problems and protect consumers.

As a sponsoring broker, being available to all clients is crucial and often makes the difference in consumer protection. Later in this book, there is more detailed information regarding advertising, which you can use as a tool to educate your sponsored sales agents.

Policies and procedures require language associated with trust account requirements. All trust accounts—including property management trust accounts—and other funds received from consumers must be maintained by the broker and be compliant with TREC Rule 535.146. Unfortunately, TREC has received

myriad complaints throughout the years of sales agents maintaining these funds and accessing them for their own personal use. While a sponsoring broker cannot predict that a sales agent will do something along those lines, having detailed policies and procedures in place that address trust accounts provides written notice to all sales agents of the requirements, which will lessen sales agent confusion over trust accounts and may also protect the sponsoring broker should a sales agent misappropriate funds.

Policies and procedures require language ensuring records are retained in accordance with TREC Rule 535.2(h).

The record retention requirements under 535.2(h) are tied to the broker. However, as a matter of practice, any sponsored sales agents are the ones who build the files associated with their real estate transaction. Having a clear, written process about file retention ensures sales agents know exactly what is required. It also provides the sponsoring broker with a process that meets the requirements under 535.2(h), which are ultimately assigned to the broker.

Written Policies and Procedures are Only as Good as You Make Them

Now that you have walked through the requirements associated with TREC Rule 535.2(i), you should have a better understanding of what must be in your policies and procedures and the reasons why. But are you using your policies and procedures in a useful way? Are you certain they cover all areas of your business and your expectations of sponsored sales agents?

It can be easy to hand over a copy of your policies and procedures to your new sponsored sales agents and have them sign a document acknowledging receipt, but are you running the risk of having sales agents who do not truly understand the brokerage's—and your—expectations?



Navigating Compliance with Recordkeeping Requirements

TREC Rule 535.2(h) specifies certain categories of records that brokers must maintain for a minimum of four years from the date of closing, termination of the contract, or end of a real estate transaction in a format that is readily available to the Commission, including:

- Disclosures
- Commission agreements, such as listing agreements, buyer representation agreements, or other written agreements relied upon to claim compensation
- Substantive communications with parties to the transaction
- Offers, contracts, and related addenda
- Receipts and disbursements of compensation for services subject to TRELTA
- Property management contracts
- Appraisals, broker price opinions, and comparative market analyses

According to many estimates, more than 350 billion emails are sent each day.

- Sponsorship agreements between the broker and sponsored sales agents.

Additionally, TREC Rule 535.146(e) requires brokers to maintain all documentation regarding trust accounts for four years from the date the trust document is received or created by the broker.

How to Comply with TREC's Recordkeeping Rules

While the categories of records are relatively straightforward, TREC rules don't provide direct guidance on how brokers may comply with the recordkeeping requirements, leaving many brokers questioning how they can ensure compliance while efficiently and effectively managing their brokerages.

There is no one-size-fits-all solution, and each broker should tailor their approach to

accommodate how they conduct business and utilize technology. Here are some considerations.

Evaluate Your Business

Brokers should thoughtfully consider the reality of how they and their sales agents operate and create and store records. Increasingly, records are created via electronic means such as emails, text messages, and online platforms. Unlike paper files of yesteryear that could be easily provided by sales agents to their brokers for storage in physical filing cabinets, most of these electronic records are saved on hard drives, smart phones, and cloud servers today.

Establish and Enforce Policies and Procedures

There are several steps brokers may take to ease the burden created by the shift in practice and increasing use of technology.

On an ongoing basis, brokers should examine how they and their sales agents communicate with their clients and save records. Do they communicate by email, text message, applications such as WhatsApp or Facebook Messenger, or old-fashioned written letters? Do they store electronic records on local hard drives, cloud servers hosted by providers such as Dotloop or Microsoft OneDrive, or in file cabinets?

After analyzing how their sales agents conduct business, brokers need to determine how they can access or secure the communications and records created by their sales agents. Often, this process of ensuring access is identified in the written agreements between a broker and a sales agent, such as an independent contractor agreement.

TREC Rule 535.2(h) requires brokers to maintain the records in a format that is readily available to TREC. Many brokers are moving to centralized, cloud-based recordkeeping systems and establishing requirements concerning when sales agents must upload the required records. Brokers who do not have these systems in place are often left scrambling to locate and produce records when requested by TREC.

Takeaways for Brokers

The steps outlined above provide a roadmap for establishing and updating a broker's recordkeeping policies and procedures. Not only is this a good practice, but it also helps to ensure compliance with TREC Rule 535.2(i)(8), which brokers who sponsor sales agents or who are designated brokers for business entities to maintain, on a current basis, written policies and procedures to ensure records are properly maintained.

Often, brokers don't have the ability to directly access these records and must rely on their agents to provide them, which can be practically difficult without advanced planning, training, and oversight.

Unfortunate situations may arise, such as the death of an agent or a broker/agent dispute, that could make it difficult or impossible for brokers to secure their sales agents' records.

The inaccessibility of records for these reasons does not relieve brokers of their recordkeeping responsibilities.

The only exception to compliance with TREC Rule 535.2(h) is for records destroyed by an "Act of God" such as a natural disaster or fire not intentionally caused by the broker.

What Would You Do?



Van Vett received her sales agent license in June 2020 and immediately became sponsored by her longtime friend Joan Cohen. Van's friendly personality, work ethic, and use of the latest technology quickly earned her a lot of business. She proudly told her clients, "I don't keep a single piece of paper in my files and can access everything online from anywhere."

True to her word, she scanned all documents and saved them on a cloud server that she subscribed to in her individual name and shredded all hard copies of documents she received.

For communications, Van used a Gmail account she created specifically for her real estate practice.

Unfortunately, in July 2022, Van and Joan had a falling out when Joan unknowingly sponsored Van's ex. Van was so mad at Joan

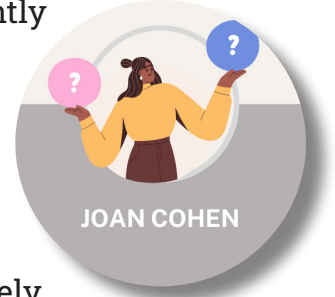
that she went to work for Joan's biggest competitor. Van permanently deleted her cloud server and Gmail accounts she used for Joan's brokerage.

The day before she left for the new brokerage, Van was distracted by the situation and forgot to timely provide notice of termination in a transaction she was handling for a client.

Fortunately, the seller still agreed to terminate the contract, and both Van and Joan were relieved and thought the situation was over.

However, the client could not let the situation go, and two years later in July 2024 filed a TREC complaint against Van and Joan.

As part of the complaint process, TREC requested all communications and documents related to the client's transaction. When Joan reached out to Van to secure the requested information, she was shocked to learn that Van permanently deleted it.



Discussion Questions

What records was Joan required to maintain for the client's transaction?

If you were Joan, how could you have ensured the records related to the transaction were properly maintained?

How would the situation change if the termination of the client's contract occurred in July 2020?



Broker Responsibilities for Property Management

Under The Real Estate License Act (TRELA) Section 1101.002(1)(A)(x), a real estate license is required if on behalf of another for compensation (or with the expectation of receiving compensation), the person controls the acceptance or deposit of rent from a resident of a single-family residential real property unit.

What Does it Mean to Control the Acceptance or Deposit of Rent?

TREC Rule 535.4(h) provides license holders with more detail about what constitutes controlling the acceptance or deposit of rent for a single-family residential property. A broker's license or sales agent license is

required if the person has the authority to do any one of the following:

- Use the rent to pay for services related to managing the property.
- Determine where to deposit the rent.
- Sign checks or withdraw money from a trust account.

While most license holders who engage in property management stay true to their fiduciary duties, there are some who do not. Having such access to another person's funds can result in dishonest and sometimes criminal behavior. The three bullets above are where consumer complaints and enforcement issues arise.



Licensing Exceptions for Leasing and Property Management

There are two exceptions to obtaining a license under TRELA related to leasing and property management.

- An owner or the owner's employee who leases the owner's improved or unimproved real estate.
- An on-site manager of an apartment complex.

This means that even if the individuals above leasing property or control the acceptance or deposit of rent, they are exempt from holding a real estate license under TRELA.

Commercial Leasing and Commercial Property Management

There is no specific commercial real estate license, meaning those who do commercial real estate hold regular broker licenses or sales agent licenses.

A real estate license is required to lease property, regardless of the type of property. This means that this activity is subject to TREC enforcement actions. However, because controlling or accepting the deposit of rent is tied to residential property only, TREC does not regulate commercial property management.

From a broker perspective, it is crucial that any sponsored sales agents who engage in commercial leasing be competent in their field. Because there are no additional licensing requirements to work in commercial leasing, the broker must ensure their sponsored sales agents are competent in this area. And, because there is often confusion as to which commercial property activity requires a real estate license, having clear policies and procedures in place is essential.

Takeaways for Brokers About Leasing and Property Management

As a broker, you must determine whether you will authorize leasing and property management in your brokerage. You will need clear written policies and procedures that detail this authorization and train the sales agents you sponsor who engage in leasing and property management to act in accordance with state law and your policies and procedures. This is true for both residential leasing and property management and commercial leasing. Brokers who routinely train and oversee their sponsored agents who deal in these areas will protect the consumer and keep you and your sponsored sales agents in good standing with the Commission.



What Brokers Need to Know About Trust Accounts

A trust account means an account managed by one party for the benefit of another in a banking institution authorized to do business in Texas.

Because money held on behalf of a landlord—like rent money—is considered trust money, there is another layer of responsibility that comes with property management.

TREC Rule 535.2(c) states that a broker is responsible for the proper handling of trust funds placed with the broker and must comply with TREC Rule 535.146. TREC Rule 535.2(i) (7) states that a broker’s written policies and procedures must ensure all trust accounts—including, but not limited to property management trust accounts—and other funds received from consumers are maintained by the broker with appropriate controls in compliance with TREC Rule 535.146.

Defining Trust Money and Trust Accounts

Trust money means client’s money, earnest money, rent, unearned fees, security deposits,

or any money held on behalf of another person. As you can see from this definition, TREC Rule 535.146 is not limited to property management, even though the two are often tied together. As a broker, have you taught your sales agents what trust money is or provided examples of trust money they may not have considered?

Know the Fiduciary Responsibilities of Accepting Trust Money

Any trust money accepted by a broker is held in a fiduciary capacity and must be maintained in a designated trust account maintained by the broker or delivered to an escrow agent authorized in Texas in accordance with the agreement of the principals of the transaction.

All Trust Accounts Must be in the Broker’s Name

Sales agents are prohibited from maintaining a trust account. All trust money received by a sales agent must be

immediately delivered to the sale agent's sponsoring broker.

Know the Deadlines Associated with Depositing Money Into a Trust Account

Unless a different time to deposit trust money is expressly agreed upon in writing by the principals to the transaction, any trust money received by the broker must be deposited in a trust account or delivered to an authorized escrow agent within a reasonable time, which TREC has determined to be not later than the close of business of the second working day after the date the broker receives the trust money.

Remember, once the trust money is delivered to your sponsored sales agent, the sales agent is required to immediately deliver those funds to you. Do you have a process in place to receive these funds? Do your agents understand these requirements and the potential legal implications of failing to comply with these deadlines?

Know the Requirements Associated Maintaining a Trust Account

TREC Rule 535.146(c) details the requirements associated with maintaining a trust account. If you maintain a trust account, make sure you adhere to these requirements. Below are some highlights.

- The trust account must be clearly identified as a trust account.
- The broker may, but is not required to, maintain separate trust accounts for each client or type of trust money maintained by the broker, such as earnest money deposits or security deposits received for the management of rental property.
- If trust money is deposited in an interest-bearing account, the money must be available for disbursement at the appropriate time and, absent a signed written agreement, any interest earned on that money must be distributed to any parties to whom the money is disbursed.
- If a broker acquires ownership of trust money held in a trust account, including

entitlement to compensation, such money must be removed from the trust account not later than the 30th day after the date the broker acquires ownership of the money.

- The broker must retain a record of each deposit or withdrawal from the trust account and provide an accounting to each beneficiary of trust money at least monthly if there has been any activity in the account.
- A broker may only authorize another license holder to withdraw or transfer money from any trust account, but the broker remains responsible and accountable for all trust money received and all deposits or disbursements from the trust account.
- A broker must maintain all documentation regarding a trust account for four years from the date the document is received or created by the broker.

Takeaways for Brokers About Trust Accounts

Trust accounts must be in the name of the broker and are ultimately the responsibility of the broker. There are many legal requirements associated with maintaining trust accounts on behalf of your clients under TREC Rule 535.146.

Handling someone else's money is a great responsibility and it is an area where TREC has seen license holders violate state law, agency rules, and harm consumers.

As a broker, do you understand all the requirements? Have you addressed this topic with your sales agents? Do your policies and procedures appropriately address the topic of trust accounts and trust money?

From the Case Files



Took the Money and ... Ran Into Trouble

This case is centered on \$10,000 and where it was (or wasn't) taken.

- A sales agent was given a cashier's check made out to him by his client.
 - He told his client the money was for "home buying services."
 - He cashed the check into his personal account.
 - There is no documentation on where the money went, despite the agent saying he and his client agreed he would deliver it to a third party.
- The Commission revoked the agent's license and assessed a \$3,000 penalty.
- The agent's broker terminated her sponsorship of him because of his questionable judgment in this situation.
- The broker was not disciplined in this case because she proved how her agent went against the brokerage's already set policies and procedures including:
 - The brokerage has a policy that says clients' money must be directed to the recipient directly.
 - The brokerage conducts monthly training on topics like broker responsibility related to contracts, how to complete a real estate transaction, and how to avoid client complaints.

The Finer Details

The end of this story, first. This case was heard at the State Office of Administrative Hearings (SOAH) by an administrative law judge (ALJ). The judge's recommended penalty for the agent was six hours of continuing education and a \$3,000 fine.

Instead, TREC dealt the sales agent a license revocation and fine because the actions

of the sales agent were so egregious, and appropriate discipline was needed to prevent such behavior in the future and protect Texas consumers. In short, the Commission was able to reject the ALJ's recommendation because of the authority it has under The Real Estate License Act (TRELA) and TREC rules.

TREC opened this case after the agent's client filed a TREC complaint. After investigating, the Commission discovered the agent violated the Texas Occupations Code by engaging in conduct that is negligent or incompetent. Specifically, the agent asked for money upfront for "the purchase of a home" and cashed it without a paper trail. Typically, the only money an agent would handle is earnest money, which would go straight to the title company.

TREC also discovered through its investigative process that the agent violated the Texas Administrative Code by failing to deliver what should have been considered trust money to his sponsoring broker. The sponsoring broker is the only one who can have a trust account.

Takeaways for Sales Agents and Brokers

- Any money, trust related or otherwise, should never be made out in the name of a sales agent.
- Document any money received or transferred to a third party.
- Ensure you have written policies and procedures addressing trust money.
- Have regular trainings for your sales agents about your policies and procedures and set clear expectations.

From the Case Files



The Jig (and Probably Her Whole Career) Is Up

A sales agent helped establish a scam operation that involved referring unqualified tenants to listing agents and property owners.

- Fraudulent lease applications were sent out over the course of eight months. The applications contained inaccurate records of income, work history, and background.
- The agent's license was revoked.
- The agent cannot file a new application for licensure with the Commission before April 15, 2028. However, the above violations may still lead to an application denial.

A Bad Apple Pulled From the Property Manager Tree



Over a four-year period, a six-count-long dishonest pattern was established against a broker who acted as a leasing agent and property manager.

- He overcharged his clients and their tenants and billed them for items outside of their signed agreements.
- He kept a pet deposit fee collected from new tenants which should've gone to one property owner.
- Two times he charged "future" property management fees for a lease term that started after his term as property manager ended.
- He billed two owners for charges that were the tenants' responsibility.

This broker's license was revoked. He cannot file an application for a new license before May 15, 2030. The factors in this case may be considered and may lead to application denial.

In Agent We Trust



The bottom line: Sales agents shall not maintain trust accounts. Trust money received by a sales agent must be delivered to the agent's sponsoring broker. Trust money cannot be combined with personal money or non-trust money.

- The sales agent in this case accepted a check for \$5,000 from his client. This check was paid to the order of the agent.
- The check's notes say the money was for repairs including plumbing.
- The agent deposited the money into his personal account and held onto the money even after his client died.
- The money wasn't returned until the agent received a demand letter from his client's estate.

The sales agent was reprimanded and ordered a \$1,500 penalty and to take 30 hours of agency law.

From the Case Files



A Repeat Offender

A little history first: The sales agent in this case was already on probated suspension for

- His part in fraudulently obtaining lease agreements in at least three transactions.
- Creating a false email address to impersonate his own sponsoring broker to intercept a commission from a title company.
- Not cooperating with TREC's investigation.

Four months after license suspension, he's at it again.

- The agent fraudulently obtained a lease agreement.
- The complainant paid the agent \$800 for him to locate a rental property for lease.
- A month later, the complainant requested a refund. The agent only returned \$300.
- The agent also allowed individuals to move into the complainant's rental property without authorization. It was later discovered all the furniture and TVs were missing from the rental.

The agent did not cooperate with any of TREC's investigations on the above. The agent's license was revoked, and he's not allowed to reapply for licensure before May 1, 2027. His license history may be considered and may lead to a denial of a future application.

Stressful Spa



The broker in this case was leasing and managing a property that has a hot tub. This attracted the property's new tenants. The problem is the hot tub was dead in the water.

- The broker failed to clean or maintain the spa after the previous tenants. So, when the new ones moved in, they found it "dirty" and with "algae."
- The new tenants were never able to use the hot tub during their lease because it was never cleaned or fixed.
- Under the terms of the Property Management Agreement, the broker agreed to address spa maintenance.

The broker was reprimanded and ordered to pay a \$500 penalty.



Keep the Money, Lose the License

This case was opened because the agent's sponsoring broker filed a TREC complaint against her.

The sales agent received her client's earnest money, cashed it, and kept it. Her designated broker helped return the client's money.

The agent's license was revoked and she was issued a \$6,500 penalty.

From the Case Files



It's Not Help, It's Harm

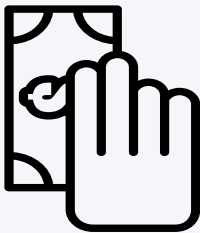
There's a past here. Six years ago, to be exact: A sales agent, while representing a tenant in a lease transaction, provided the tenant with a blank lease form so the tenant could sublease the property.

- This is a violation of the original lease.
- The form named the tenant as the property owner.
- The agent admitted to providing the tenant with a blank lease form so the tenant could falsify a lease to allow the tenant to enroll relatives in a certain school district.
- The agent was ordered to pay a \$3,500 penalty and his license was suspended for three months.

Fast forward to current events: The agent submitted lease applications for six different properties on behalf of the same person, knowing that the person could not occupy multiple properties at the same time. The "would-be tenant" in this case, "Kim," contacted the agent to help her with renting properties to house domestic violence victims.

However, Kim is listed as the only occupant on all applications. The agent knew Kim fraudulently applied to occupy the properties as the tenant, not as a guarantor or co-signer. The agent also knew the lease agreements did not allow the tenant to sublease without the landlord's written approval.

The fraudulent leases caused irreparable harm to at least two property owners. Because of the agent's history, the above violations of duty to deal honestly and fairly with all parties, and duty and to convey accurate information, the agent's license was revoked. The agent was also ordered to pay \$51,000.



Managing Properties Under the Table

A sales agent managed two properties, one for six years, without authorization from her broker. The agent did not have a written property management agreement with the owner/complainant, who was also unaware the broker had not given the agent authority to conduct property management activities.

The agent collected and delivered monthly rent payments to the owner/complainant, minus \$100 a month per property she kept for herself. Because the agent acted negligently/incompetently, maintained a trust account, deposited/maintained trust money in a personal or business account, and failed to deliver trust money to the sponsoring broker, she was reprimanded, ordered to pay a \$2,500 penalty, and ordered to complete 30 hours of an agency law course.

Create Your Policies and Procedures

What would you include in your policies and procedures to address property management, trust accounts, and trust money? List ideas below.

What Brokers Need to Know About Business Entity Broker Licenses and Business Entity Registrations

Business Entity Broker Licenses

A long-time option for receiving compensation is the business entity broker license. The business entity broker license is the option for those who intend to conduct brokerage activity with that entity, such as using the name of the entity to advertise or as a party in a listing or buyer representation agreement.

Business Entity Registrations

LLCs and S-Corps are typically formed for tax purposes, often at the recommendation of a CPA. License holders have the option to register LLCs and S-Corps with TREC to receive compensation as long as those entities meet certain requirements.

Receiving compensation is a form of brokerage activity; however, Texas law provides a carve out for LLCs and S-Corps from the requirements of TRELA under specific circumstances.

Example: Rane Gets an LLC

Rane Chuck is a licensed sales agent and delegated supervisor of a team. He wants to be paid through a single-member LLC he created. Rane can register his LLC so he can lawfully receive compensation from his broker. Again, he can do this only if he does not conduct any other type of brokerage activity with that LLC.

Once compensation is received, he can use the money however he chooses. He can



use it to cover advertising materials or for a much-needed vacation. He could even pay out members of his team if his broker has provided written authorization to him to pay and the other team members to receive compensation from Rane.

Remember, Rane cannot use his registered LLC to perform any other type of brokerage activity. Doing so would be unlicensed activity and would result in disciplinary action.

Business Entity Registration Versus Business Entity Broker License

LLCs and S-Corps used for registration must be at least 51% owned by the individual license holder on whose behalf the entity receives compensation. An exception to this is for married couples who are both licensed and jointly own 100% of the entity as community property (instead of each owning 50% of the entity individually), which should be reflected in the company agreement and related IRS tax elections. That is the only instance where two license holders can use the same registration to receive compensation.

The TREC Business Entity Comparison chart on page 37 outlines some of the differences between business entity registration and the business entity broker license.

Takeaways for Brokers

Be prepared to provide clarity to your sponsored agents on the benefits of either the business entity broker license or business entity registration. This is a perfect opportunity to customize your policies and procedures to address both options so that you know your sales agents are getting it right.

Make sure you have documentation related to the registration of each entity. TREC issues a letter with a registration number. You can require your sponsored sales agents to provide you with a copy of that letter to receive compensation. You will likely also want them to provide you with their updated certification of registration every two years. It might make sense to have a database of all registrations that alerts you to when they are due for a certification. This is just one idea for a process you could include. There are many ways to ensure your agents comply before you pay compensation to a registered entity.

TREC Business Entity Comparison Chart

Registration		License
Eligible business entities LLCs* S-Corps*		Eligible business entities LLCs Corporations (including S-Corps) Partnerships Other authorized entities
✔	Can receive compensation on behalf of a license holder	✔
✘	Can perform other types of brokerage activity (e.g., advertise a property under the name or use the name of the entity in the listing agreement).	✔
✘	Errors and omissions insurance requirements	✔*
✘	Designated broker required	✔

*Must be at least 51% owned by the license holder on whose behalf the entity receives compensation. Exception for married couples who are both licensed and jointly own 100% of the entity as community property (instead of each owning 50% of the entity individually), which should be reflected in the company agreement and related IRS tax elections.

*If the designated broker owns less than 10% of the business entity.

Updated July 2024

Create Your Policies and Procedures

Jot down a few notes about what you would include in your brokerage's policies and procedures manual related to business entity broker licenses and business entity registration.



Broker Succession: What Happens When the Designated Broker Dies?

Death is a difficult topic, and its aftermath is hard to navigate. Although it might be unpleasant to think about, if you are a designated broker, you need to create a plan so the sales agents you sponsor aren't in a precarious position with their livelihood and brokerage clients and customers aren't left in a lurch in their pending transactions.

What happens next will depend on the structure of the business and any brokerage succession planning the brokerage already has in place. Here's what you should know to keep things on track in the event a designated broker passes away.

TREC's Role in Broker Succession

Under TREC rules, the death of a sponsoring or designated broker will cause any sponsored sales agent's license to become inactive, meaning the sales agent cannot perform any real estate services that require a license—even if the agent is in the middle of a transaction. This is true regardless of whether the agents are sponsored by an individual broker or a business entity broker.

Scenario 1: Death of an Individual Broker Who Sponsors Sales Agents

If a sales agent is sponsored by an individual broker (and not the designated broker for a

business entity), the sponsored sales agent's license will become inactive. Importantly, the agent can quickly utilize TREC's online Relationship Management Tool and request a new broker, typically without any delay.

Scenario 2: Death of a Designated Broker (TREC Rule 535.124)

TREC adopted a new rule in August 2024 to detail agency practice and provide better guidance in the event the designated broker of a licensed business entity dies.

For a business entity to obtain a broker's license, the entity must name a designated broker that satisfies certain requirements. According to The Real Estate License Act (TRELA) and TREC rules, a designated broker must hold an active broker's license in good standing and have managing authority for the business entity (think a corporate officer, an LLC manager, an LLC member with managing authority, or a general partner).

Similarly, when a designated broker for a business entity dies, the business entity license becomes inactive, as does any sponsored sales agent's license. However, because the business entity still exists (and possibly representation agreements as well), then in most cases, the sponsored sales agent is not going to want to find a new broker. The entity simply needs to designate a new

broker with TREC and the sponsored sales agents can resume business. Still, as outlined above, this new designated broker can't just be anyone: TREC has to verify that the new broker is in good standing and has managing authority for the entity. And if this new broker doesn't have this authority already, it can take time to get it.

This is where TREC Rule 535.124 comes into play. Under this rule, neither the business entity license nor any sponsored sales agent's license will become inactive right away. Rather, the entity and agents will be given a "safe harbor" or grace period of 14 days from the broker's death before their licenses inactivate. This will hopefully give the entity and agents time to designate a new broker that satisfies the requirements without having to go inactive and disrupting business.

Business Entity Best Practices Regarding Broker Succession

The information above ties back to TREC and the regulatory considerations regarding broker succession. While TREC has attempted to make broker succession a more streamlined process in terms of naming a new designated broker for a business entity, there are business considerations that are equally important. Preparation and planning are key when considering broker succession. To eliminate or minimize the amount of time sponsored sales agents are without a sponsoring broker and are unable to conduct business, consider these best practices.

When forming an entity, consider giving more than just one broker managing authority. To be eligible to serve as a designated broker for the entity, the broker must have managing authority for the entity. If more than one broker is given this authority at the outset—when a business entity is initially formed—switching to another designated broker should be quicker and more efficient than struggling to amend business filings or documents at the eleventh hour.

Identify the successor, preferably in writing. Regardless of whether additional brokers are given managing authority at formation, it is important to identify which broker will take over as designated broker should the current broker no longer be able to serve. Having this determination in writing and communicated to the brokerage can help alleviate confusion and speed up resolution when the time comes.

Review agreements to determine what happens upon death of a party. At any given time, brokerages will likely have many different types of agreements in place, including personal service agreements like listing agreements or buyer representation agreements. If an individual broker is the named party to a representation agreement, then that agreement may terminate upon the death of that broker. However, if the named broker is the licensed business entity, then the death of the designated broker may not impact these agreements. What happens may also depend on the specific language of the agreement, so it's best to review these agreements ahead of time in consultation with a private attorney to get a thorough understanding of each outcome.

Broker Takeaways

- Consult TREC Rule 535.124 and make sure you understand the process for handling broker succession.
- Understand the requirements under TREC Rules 535.124 and 535.53 regarding designated brokers and business entities and what will be required of a replacement designated broker.
- Make sure you know best practices associated with broker succession planning.
- Take the time to plan in the event the unexpected does happen. Death is a difficult topic, but having a plan in place protects the consumer and sponsored sales agents.

Chapter 3 Competency



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Learning Objectives

After this chapter, you will be able to

- ✓ Calculate when and distinguish what constitutes a response to sponsored sales agents, principals, other parties—including other brokers and sales agents—to a real estate transaction.
- ✓ Define the three forms of competency license holders are obligated to possess to practice real estate in Texas.
- ✓ Describe different ways to ensure sponsored sales agents are competent in the areas in which they practice.



Timely Response Required: How to Comply With TREC Rules

As a sponsoring broker or delegated supervisor, TREC Rule 535.2(j) requires you to respond to your sponsored or supervised sales agents within two calendar days. Often, a communication between a sales agent and their broker or delegated supervisor is a question or an issue that requires resolution. A response under this rule by the broker or delegated supervisor would be acknowledging you received the communications from your sales agent and to attempt to resolve the issue presented.

In 2023, TREC adopted a new rule, 535.157, Obligation to Respond Timely, that requires brokers or sales agents to respond within two calendar days to:

- Their principal
- A broker or sales agent representing another party to a real estate transaction
- An unrepresented party to a real estate transaction.

This rule does not change a broker's or a delegated supervisor's requirements to respond to sponsored sales agents within two calendar days.

As a broker, you will want to make sure you understand how this rule works and teach your sponsored sales agents about the rule and what is expected of them. Just like other requirements, you remain responsible if your sponsored agents violate this rule.

Here are some common questions and answers about what this means in practice.

Does "calendar days" mean weekends or holidays? Yes. You must respond even if the time period falls on a weekend or holiday.

How do I provide a response? There is no requirement in the rule about how you must respond, so it can be through a phone call, a text message, an email, or however you are communicating with these parties.

Create Your Policies and Procedures

What would you include in your policies and procedures to address the timely response rules? List some ideas below.



What do I have to communicate?

The response can be as simple as an acknowledgment you have received the communication. This rule does not require you to close a deal or otherwise force a decision or specific action.

What happens if someone violates this rule? Failure to comply with this rule may result in TREC taking an enforcement action against you, which can include fines.

What is considered a real estate transaction? A real estate transaction under the timely response rule will depend on the facts of the situation. Generally, a real estate transaction will include the offer stage, and it may include earlier communications related to a prospective offer. The timely response rule only requires acknowledgment of the offer within two calendar days and does not force a party to accept, reject, or negotiate an offer.

A license holder's fiduciary duties owed to their client include representing the interest of the client in the buying, selling, or leasing of a property. Even outside of the timely response rule, failing to respond in general could be viewed as a breach of your fiduciary duties. For these reasons, being responsive can help reduce your risk of facing disciplinary action.



All About Competency

TREC Rule 531.4 addresses license holder competency. “It is the obligation of a license holder to be knowledgeable and competent as a real estate brokerage practitioner. The license holder must:

- (1) be informed on local market issues and conditions affecting real estate in the geographic area where a license holder provides services to a client;
- (2) be informed on national, state, and local issues and developments in the real estate industry;
- (3) exercise judgment and skill in the performance of brokerage activities; and
- (4) be educated in the characteristics involved in the specific type of real estate being brokered for others.”

Since the broker is responsible for ensuring competency of sponsored sales agents, the broker should have policies and procedures defining the characteristics and minimum competency standards for different specializations or types of real estate transactions the broker allows sales agents to perform. It should also address subject-matter competency, geographic competency, and TREC contract form competency.

Subject-Matter Competency

A broker or a delegated supervisor should be competent in the subject matter they allow agents to practice and oversee those activities through coaching and guidance. Examples of subject-matter competency include being a buyer’s or seller’s agent, engaging in property management, or practicing farm and ranch or commercial sales.

Geographic Competency

The Real Estate License Act (TRELA) and TREC rules require license holders be geographically competent in all brokerage activities. This means a license holder should have knowledge of the specific geographic area in which the license holder is providing a service, as well as local market issues and conditions affecting real estate in the geographic area in which they work.

Texas has a varied real estate business culture, especially when you factor in the state’s economy and diverse population. Real estate transactions in Beaumont are different than those in El Paso; transactions in Amarillo differ from those in Brownsville. Even close-together regions in Texas, such as the Dallas-Fort Worth Metroplex, may have diverse geographies. Time and economic changes can

further alter those differences. For instance, think about the recent developments in oil and gas drilling technology, or how housing developments are beginning to pop up in once rural areas which are now becoming more desirable due to proximity to growing cities.

TREC Contract Form Competency

Brokers must ensure the sales agents they sponsor know how to correctly use and complete all contract forms. Contract forms can be tricky, even for seasoned agents. Brokers must be experts on contract forms. They must also know how to count days to establish deadlines for action, and know what dates go where. It is the responsibility of the broker and delegated supervisors to educate sponsored agents on how to complete forms so sponsored agents can build their competency.

Competency Questions for Brokers

How does a sponsoring broker ensure contract form competency without encouraging the unauthorized practice of law?

Under TREC Rule 535.2, brokers have a duty to make sure their sponsored sales agents are up to date on TREC contract form changes and understand the TREC contract forms. However, understanding the contract forms does not mean agents can advise on the legal implications of those form. These types of questions should always be directed to an attorney.

Can a license holder who is not geographically competent become geographically competent?

Yes. Geographic competence is something a license holder can acquire. Do not let the requirement of geographic competency become a tool for holding license holders back in their practice. As a broker, you must ensure your sponsored agents are geographically competent. This means understanding sponsored agents' geographic competency and providing them with guidance and opportunity to improve and expand this knowledge.

How does a sponsoring broker ensure a more seasoned sales agent maintains competency?

Active engagement with their sponsored sales agent. Recommend classes they would benefit from as they continue their practice. Have them mentor new sales agents, because teaching is an excellent way to remember the "why" behind doing something a certain way.

How can someone become competent in a particular brokerage activity? Being competent in any type of real estate brokerage activity requires not only traditional education but also real-world experience. There is no set standard as it relates to issues relevant to brokerage activity within the state. A broker must ensure that reasonable boundaries are set for agents that allow for a productive and knowledgeable practice. Consumers rely on the knowledge and skills of their sales agent and broker.

What if the sponsoring broker is not competent in the type of brokerage activity the sales agent wishes to practice? The sponsoring broker must either gain the experience or find a qualified supervisor, team leader, or coach who can teach the agent and assess the agent's competency in the specific brokerage activity.

If both the sponsoring broker and sponsored agent are not competent in a particular area of practice, the best practice is passing the lead to someone competent via a referral until both the sponsoring broker and agent gain the necessary competency.

Coaching and Training

Tresa and Property Management



Tresa Franklin is involved in a local group of sales agents who meet monthly for networking and to attend classes on market trends and best practices. Through this group, she has met a lot of friends, many of whom are moving into the area of leasing and property management because the market is slowing down. Tresa has been feeling a lot of pressure to get going in her real estate practice and thinks property management might be a good fit for her as she gets her sea legs.

Tresa gets a lead on a single-family home that a neighbor wants to put up for lease. Tresa's sales agent friends tell her that leasing the home should be a slam dunk, but that she better act quickly if she wants the listing. Tresa has an excellent relationship with her supervisor Freda Quinn, so she reaches out to her instead of accepting the listing on the spot like her friends said she should.

Freda knows that Tresa is a very

responsible and thorough worker, so she advises broker Joan Cohen she thinks Tresa can do it with the appropriate level of supervision from a qualified license holder (in this case, Freda herself). Freda takes the time to walk through the fundamentals of leasing with Tresa. She also makes sure she registers to take the Residential Property Management course as part of her training even though it is not required. She knows that broker Joan has high expectations of her sponsored agents and that a course like this will help develop Tresa and make sure she is competent in property management.

Tresa takes the time to learn more about the area by visiting the neighborhood. While Tresa is the sales agent doing the primary work on the transaction, Freda is behind her all the way. She checks her work, reviews all related paperwork, and trains her to the standards of the brokerage.



Discussion Questions

What steps did Tresa and Freda take to ensure Tresa was ready to enter the world of property management? Is there anything else they could have done?

Coaching and Training

Wendell and Buyer Representation



Wendell Holland's practice over the last two years has been solely in representing sellers. Wendell is confident he has a natural gift for real estate that not many possess.

Wendell is now working with a client who wants to purchase a home. His broker assigned Wendell a mentor, Josef Tedi, and directed him to work with that mentor because it is Wendell's first time on this side of the transaction.

Josef provided Wendell with some guidance documents on how to represent a buyer. Josef also let Wendell know that his door is always open; however, Josef could tell that Wendell was not interested in receiving any coaching.

Wendell's client is very interested in a house for sale on the other side of town where there is a proposed plan to add a commuter train. Once built, the train will allow for easy access to the local downtown and shopping, which sounds great to the

buyer. The buyer has also indicated he does not want to be along the actual train line because of noise issues.

There has been a lot of discussion at the local level about exactly where the new train line will run. Wendell is so annoyed he's been assigned a mentor. This sale is no big deal and he's been doing this for two years!

Also, why is this buyer so needy? Why can't the buyer just pick a house and Wendell provide the contract documents and cash his check?



Instead of working with his mentor or doing any sort of research on the train line, he tells his client there's no way the train line will run alongside the house for sale. That house backs up to what looks like a greenbelt, so there's no way the city will build there! The deal closes, and Wendell is so glad he did not waste his time doing the things his mentor advised him to do.

Discussion Questions

Can you guess what happens next?

What should Wendell have done?

Is there anything Josef could have done differently?

From the Case Files



Who's Paying for the Driveway?

A broker listed an unimproved property and with it a statement that said the city would provide a driveway for the lot. Two months later, the parties closed. Shortly after, the buyer contacted the city to start construction on the driveway. Here's the problem:

- According to the city's ordinances, property owners are responsible for installing their own driveway.
- The buyer incurred significant expenses to install a culvert and driveway.

The broker lacked due diligence by not verifying information before advertising the property. The broker was reprimanded and ordered to pay a \$750 penalty and complete 30 hours of a real estate marketing course.



Two Things: Verify and Get It in Writing

The broker in this case represented both the seller and buyer as an intermediary. She did not get written consent from the buyer to do this. The transaction involved a property the broker advertised as having a new HVAC system. After closing, the buyer learned the system was past life expectancy. Because of a lack of due diligence in verifying information and not obtaining written consent from each party to act as an intermediary, the broker was reprimanded, ordered to pay a \$2,250 penalty, and ordered to complete 30 hours of an agency law course.



Do You Know Where Your Agents Are?

It all starts with policies and procedures, or lack thereof. The broker in this case failed to maintain required written policies and procedures to ensure each sponsored sales agent was advised of authorized activities.

The broker also failed to ensure the agent in this case was competent to conduct such activities. The broker was reprimanded and ordered to pay \$500. Here's what happened:

- The broker's agent failed to inform his client, the property owner, of the criminal background of a prospective tenant.
- That prospective tenant later moved in and eventually stopped paying rent.
- The agent also failed to have his client execute the lease before the tenant moved in.

The agent's license was placed on probated suspension for 18 months. He was ordered to pay \$1,500 and take 30 hours of a principles of real estate course.

From the Case Files

Flooding, Where?



First thing's first: In short, it is a violation of the Texas Occupations Code to misrepresent a known significant defect or to fail to disclose a known defect to a potential buyer. Both happened here:

- A seller did not disclose previous property flooding in the *Seller's Disclosure Notice*.
- When the seller's broker first listed the property on the MLS, the broker did type "Had about inch of water downstairs with Harvey" in the "Agent's Remarks" section.

However, flooding information was not disclosed when the broker re-listed the property five months later. Parties closed on the property. After move-in, buyers discovered significant flooring issues because of the previous flood.

The broker was reprimanded, ordered to pay \$2,500, and ordered to take 30 hours of a real estate law course.



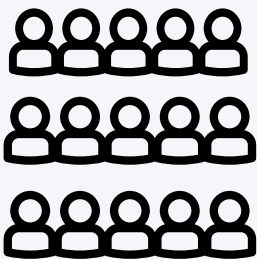
Double Trouble

The broker in this case failed to properly supervise a sponsored sales agent.

They both represented the buyer in a transaction. The agent failed to check the box in Paragraph 2(A) of the *Third Party Financing Addendum* that says, "this contract is subject to Buyer obtaining Buyer Approval."

The buyer executed the contract and placed \$4,999 as earnest money. A month later, the buyer executed a *Notice of Buyer's Termination of Contract* because the buyer could not obtain buyer approval. Because the addendum was incorrectly filled out, the buyer forfeited the earnest money.

The broker and agent were reprimanded and ordered to pay \$500. The agent was also ordered to complete 30 hours of a real estate finance course.



You Gotta Watch 'Em All

The integral lesson with this one: The broker is responsible for ensuring sponsored sales agents exercise competence and integrity. A broker may delegate responsibility for supervising a sponsored agent to another license holder, but this does not relinquish the responsibility for ensuring compliance with The Real Estate License Act (TRELA).

TREC revoked a sales agent's license because:

- She knowingly submitted approximately 52 lease applications containing false information.
- She negotiated leases based on those fraud applications and other altered documents, like credit reports and fake paycheck stubs.
- This agent's designated broker told the Commission he appointed another license holder to serve as the agent's mentor.

The broker was reprimanded for failing to properly supervise a sponsored sales agent and ordered to pay \$1,000.

Create Your Policies and Procedures

What would you include in your policies and procedures to address competency? List ideas below.

Chapter 4

Daily Business



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- 61 Not Sure if You Want to Renew Your License? Here's Why You May Want to go Inactive

Learning Objectives

After this chapter, you will be able to

- ✓ Understand advertising rules, including a broker's responsibility for sponsored agents using social media for advertising.
- ✓ Recognize the benefits and risks of emerging AI technologies in real estate.
- ✓ Compare and contrast the differences between broker price opinions, comparative market analyses, and appraisals.
- ✓ Articulate how a sponsored sales agent's license is affected if continuing education requirements are not satisfied timely.

Information About Brokerage Services

Section 1101.558 of The Real Estate License Act (TRELA) and TREC Rule 531.20 require brokers and sales agents to post and provide the *Information About Brokerage Services* (IABS) form to protect the consumer by giving it to prospective buyers, sellers, tenants, and landlords at the first substantive communication concerning a specific real property.

The IABS form is divided into five sections covering


- Real estate license holder types
- Brokers' legally required duties
- Representation
- Written agreements and commissions
- Contact information for brokers and sales agents.

The IABS form is an important tool for consumers because it provides them with relevant information related to regulated brokerage activity in Texas and what they should expect from a license holder. You may also want to inform consumers that the IABS form does not create any obligation to use the services of the broker.


Remember, what seems like basic knowledge to you as a license holder on the broker-agent relationship and responsibilities is often new information to the consumer. As such, it is crucial this information is provided in accordance with law and rule.

What is an Advertisement?

If you are a license holder, any form of communication to attract people to use your real estate brokerage services can be considered an advertisement under TREC rules and the law. This can include what people traditionally think about as advertising, like TV commercials or shows, newspapers and magazines, signs, displays, brochures, and billboards. It also includes electronic media, such as email, text



Information About Brokerage Services
Texas law requires all real estate license holders to give the following information about brokerage services to prospective buyers, tenants, sellers and landlords.

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TYPES OF REAL ESTATE LICENSE HOLDERS:

- A **BROKER** is responsible for all brokerage activities, including acts performed by sales agents sponsored by the broker.
- A **SALES AGENT** must be sponsored by a broker and works with clients on behalf of the broker.

A BROKER'S MINIMUM DUTIES REQUIRED BY LAW (A client is the person or party that the broker represents):

- Put the interests of the client above all others, including the broker's own interests;
- Inform the client of any material information about the property or transaction received by the broker;
- Answer the client's questions and present any offer to or counter-offer from the client; and
- Treat all parties to a real estate transaction honestly and fairly.

A LICENSE HOLDER CAN REPRESENT A PARTY IN A REAL ESTATE TRANSACTION:

AS AGENT FOR OWNER (SELLER/LANDLORD): The broker becomes the property owner's agent through an agreement with the owner, usually in a written listing to sell or property management agreement. An owner's agent must perform the broker's minimum duties above and must inform the owner of any material information about the property or transaction known by the agent, including information disclosed to the agent or subagent by the buyer or buyer's agent.

AS AGENT FOR BUYER/TENANT: The broker becomes the buyer/tenant's agent by agreeing to represent the buyer, usually through a written representation agreement. A buyer's agent must perform the broker's minimum duties above and must inform the buyer of any material information about the property or transaction known by the agent, including information disclosed to the agent by the seller or seller's agent.

AS AGENT FOR BOTH - INTERMEDIARY: To act as an intermediary between the parties the broker must first obtain the written agreement of each party to the transaction. The written agreement must state who will pay the broker and, in conspicuous bold or underlined print, set forth the broker's obligations as an intermediary. A broker who acts as an intermediary:

- Must treat all parties to the transaction impartially and fairly;
- May, with the parties' written consent, appoint a different license holder associated with the broker to each party (owner and buyer) to communicate with, provide opinions and advice to, and carry out the instructions of each party to the transaction.
- Must not, unless specifically authorized in writing to do so by the party, disclose:
 - that the owner will accept a price less than the written asking price;
 - that the buyer/tenant will pay a price greater than the price submitted in a written offer; and
 - any confidential information or any other information that a party specifically instructs the broker in writing not to disclose, unless required to do so by law.

AS SUBAGENT: A license holder acts as a subagent when aiding a buyer in a transaction without an agreement to represent the buyer. A subagent can assist the buyer but does not represent the buyer and must place the interests of the owner first.

TO AVOID DISPUTES, ALL AGREEMENTS BETWEEN YOU AND A BROKER SHOULD BE IN WRITING AND CLEARLY ESTABLISH:

- The broker's duties and responsibilities to you, and your obligations under the representation agreement.
- Who will pay the broker for services provided to you, when payment will be made and how the payment will be calculated.

LICENSE HOLDER CONTACT INFORMATION: This notice is being provided for information purposes. It does not create an obligation for you to use the broker's services. Please acknowledge receipt of this notice below and retain a copy for your records.

Licensed Broker /Broker Firm Name or Primary Assumed Business Name	License No.	Email	Phone
Designated Broker of Firm	License No.	Email	Phone
Licensed Supervisor of Sales Agent/ Associate	License No.	Email	Phone
Sales Agent/Associate's Name	License No.	Email	Phone

Buyer/Tenant/Seller/Landlord Initials _____ Date _____

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IABS 1-0

messages, social media posts, and websites.

Advertising does not include a communication from a license holder to the license holder's current client or a directional sign that may also contain the broker's name or logo.

This is information found in TREC Rule 535.155, which will be covered in this section, but is worth a thorough review by you and your sales agents.

Who is Advertising?

Brokers (including associated brokers), sales agents, and teams produce advertisements and must follow advertising rules and laws.

But before going into the specifics of the law, a broker should understand the requirements from TREC for “doing business as” (DBAs)—also known as assumed business names—as well as alternate names and team names.

Broker’s Assumed Business Name (DBA)

The broker’s assumed business name, or DBA, is another name for the brokerage that can be used by all broker associates or sponsored agents. It is the name that the brokerage may be generally known as.

A business name that indicates a broker’s line of business (e.g., property management or commercial) is also considered an assumed business name of the broker, even though it may not be available for use by all broker associates and sponsored agents.

Any broker (individual or business entity) can have a DBA. The DBA must be registered with TREC by the broker before it can be used in advertisements. The broker must also have legal authority to use the DBA in Texas.

For example, Freda Quinn is a broker and operates her sole proprietorship under the name FQ Realty. To use FQ Realty in advertising, this DBA must be registered with TREC.

In another example, Joan Cohen is the designated broker for Bluebonnet Bells Real Estate, LLC. To use Bluebonnet Bells Real Estate in the brokerage’s advertising, she must register it as a DBA with TREC.

What is an Alternate Name?

An alternate name is a name used by an individual license holder other than their licensed name. It is a nickname, maiden name, or married name that the individual wants to use in advertisements.

Before this name can be used in an advertisement, it needs to be registered with TREC by the license holder.

Common name derivatives such as Bob for Robert or Kim for Kimberly do not have to be registered as an alternate name.

Team Name

A team name is a name used only by one or more license holders working together within a brokerage that is not the broker’s licensed name or DBA. Before a team name can be used in any advertisement, it must be registered with TREC by the broker.

Team Name Requirements and Restrictions

- The team’s name must end with the word *team* or *group*.
- Using words in a team name that could mislead the public to mistake the team for the brokerage is not allowed.

How Does a Broker Register a Team Name?

A broker must notify TREC before sales agents or associated brokers may advertise using a team name. The creation of a team name is in the broker’s Relationship Management Tool via the TREC website.

Acceptable Team Name Words

Property
Real Estate
Homes
Realty

Prohibited Team Name Words

Brokerage
Company
Associates



What Advertising Laws and Rules Must License Holders Follow?

The Real Estate License Act (TRELA) Section 1101.652(b)(23) states an advertisement cannot:

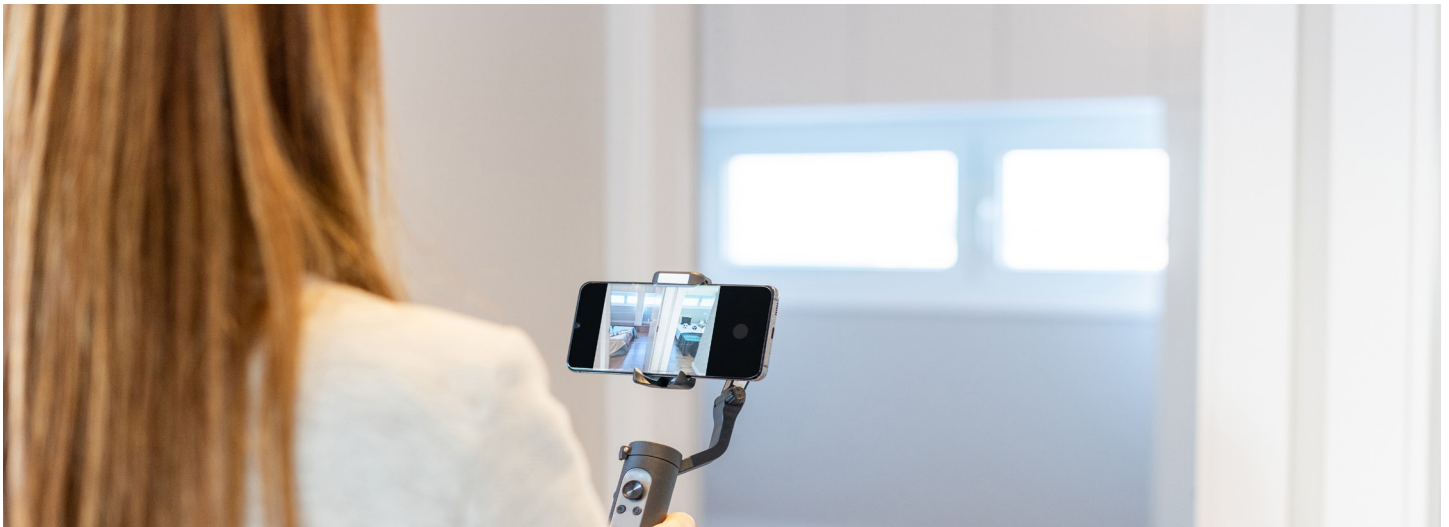
- Mislead or be likely to deceive the public.
- Tend to create a misleading impression.
- Imply that a sales agent is responsible for the operation of the broker's real estate brokerage business.

TREC Rule 535.155 states that every ad must contain both the name of license holder or team placing advertisement and the name of the broker in at least half the size of largest-sized contact information for any sales agent,

associated broker, or team name contained in the advertisement.

By rule, contact information means any information that can be used to contact a license holder featured in the advertisement, including a name, phone number, email address, website address, social media handle, QR code, or other similar information.

TREC Rule Section 535.155(d) lists misleading advertisements that fall under the statutory prohibitions. See page 56 with "20 Misleading Advertising Types" for more information.



Advertising and Social Media Trends

Social media platforms have become a significant and low-cost method of advertising for real estate brokers and sales agents, although they may not realize that those Instagram reels and TikTok stories are doing just that. Remember, any communication used to attract people to use your brokerage services is considered an advertisement.

You've probably seen viral trends on social media over the years, like the "ice bucket challenge" that had everyone from celebrities to your aunt getting ice dumped over their heads in the name of raising awareness and funds for ALS research.

Real estate-related content is also popular. Have you ever seen someone walking through a high-end home pointing out the amenities that "just make sense," like hidden doors or fancy technology? Or maybe you've seen simple house tours to boost interest in an upcoming open house.

Although sales agents may just be riding a trend or using video to engage with an audience, these types of posts can be considered advertising. And these activities are permissible under the advertising rules, as long as you have the consent of the owner or the owner's authorized agent.

You must also abide by the one-click rule on the social media account you are using to do this type of advertising.

What is produced could expose an agent and the broker to a complaint being filed—

or worse—a lawsuit. There are some other considerations outside of TREC's jurisdiction that you might consider, such as:

- Terms of use of the platform
- Safety of seller/future buyer
- Decorum
- Your brand

Don't Let Social Media Be a Blindspot in Your Brokerage

Brokers must ensure that if their sales agents are using their profiles for their business, they are complying not only with TREC rules and laws but the brokerage's policies and procedures. Brokers can include in their policies and procedures the type of social media content agents can create. Brokers should also include mechanisms for reviewing content created for social media. Here are some options to ensure compliance.

- Have agents go through the plan of what content they are creating beforehand so the broker can provide feedback or set limitations.
- Review recordings before they are posted.
- Have minimum guidelines for livestreams, if they will even be allowed. For instance, will broker or delegated supervisor be watching?

At minimum, a broker needs to know what their sponsored sales agents are doing on social media and set expectations of what is allowed.

Takeaways for Brokers About Advertising

Here are some expectations for brokers when it comes to advertising.

- Ensure sales agent's advertisements comply with TREC Rules 535.154 and 535.155.**
- Maintain current policies and procedures on advertisement compliance.**
- Register brokerage DBA(s) and team names of agents and associated brokers with TREC before they are use in advertisements.**
- Notify TREC no later than 10 days after use of a DBA or team name has stopped.**
- Review and understand TREC's advertising rules, including naming criteria and registration.**
- Develop comprehensive policies and procedures on advertising standards.**
- Train agents and delegated supervisors on the advertising policy.**
- Have a system for reviewing advertising before it goes public.**
- Have a system of follow-up for any advertisement that promises a rebate or donation.**

From the Case Files



Got Policies, Procedures?

A sales agent marketed a property without the knowledge and consent of the owner or the owner's agent.

The agent sent an email blast saying he was "working with a seller who is in the market to entertain offers on his storage facilities."

The agent was reprimanded, ordered to pay a \$1,000 penalty, and ordered to take 30 hours of an agency law course.

The agent's designated broker also takes the fall. Here's why:

- He did not maintain policies and procedures that ensured his agent complied with the Commission's advertising rules.
- He was reprimanded, ordered to pay a \$750 penalty, and ordered to take the Broker Responsibility Course.



20 Misleading Advertising Types

TREC Rule Section 535.155(d) lists 20 advertisement types that would be considered misleading or likely to mislead the public. This list is not exclusive, meaning that there could be other types of advertisements that would be considered misleading.

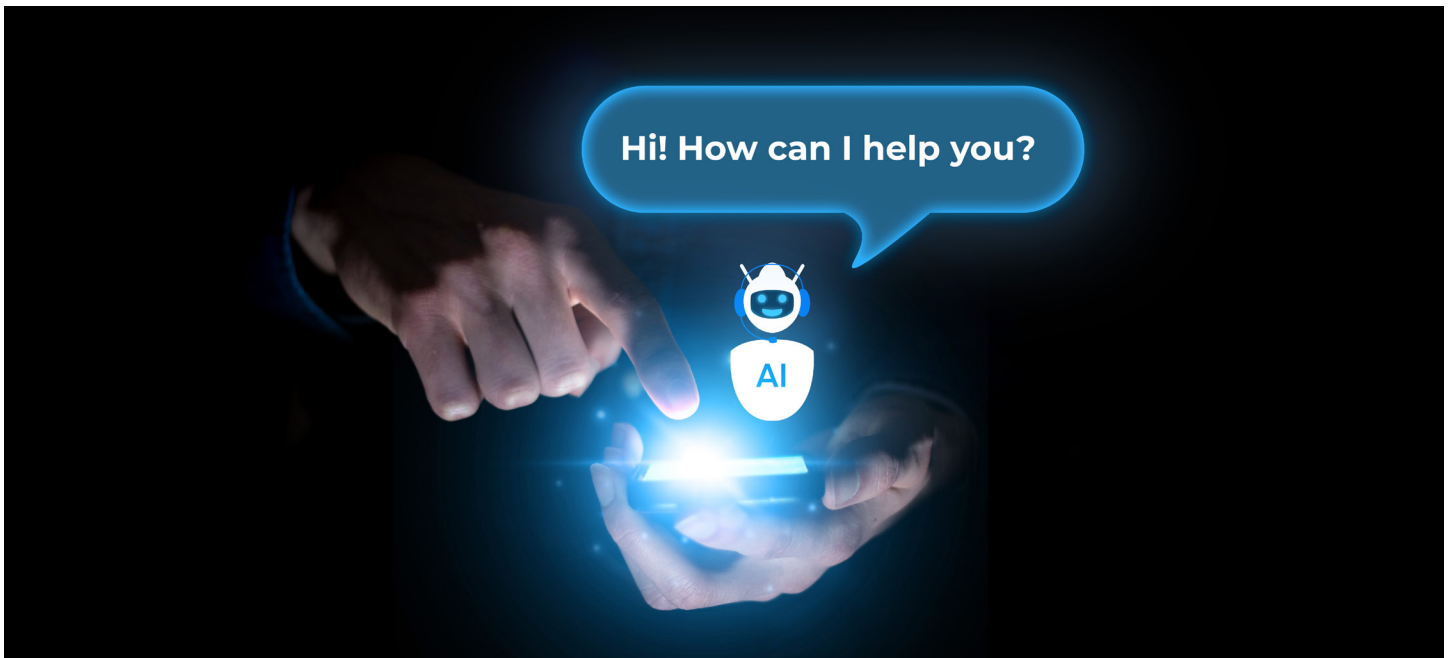
Specifically, TREC Rule Section 535.155(d) says: “ ... an advertisement that misleads or is likely to deceive the public, tends to create a misleading impression, or implies that a sales agent is responsible for the operation of the broker’s real estate brokerage business includes, but is not limited to, any advertisement:

1. That is inaccurate in any material fact or representation;
2. That does not comply with this section;
3. That identifies a sales agent as a broker;
4. That uses a title, such as owner, president, CEO, COO, or other similar title, email or website address that implies a sales agent is responsible for the operations of a brokerage;
5. That contains a team name with terms that imply that the team is offering brokerage services independent from its sponsoring broker, including, but not limited to, ‘brokerage,’ ‘company,’ and ‘associates’;
6. That contains the name of a sales agent that is not the name as shown on the sales agent’s license issued by the Commission or an alternate name registered with the Commission;
7. That contains the name of a sales agent whose name is, in whole or in part, used in a broker’s name and that implies that the sales agent is responsible for the operation of the brokerage;
8. That causes a member of the public to believe that a person not licensed to conduct real estate brokerage is engaged in real estate brokerage;
9. That contains the name or likeness of an unlicensed person that does not clearly disclose that the person does not hold a license;

10. That creates confusion regarding the permitted use of a property;
11. About the value of a property, unless it is based on an appraisal that is disclosed and readily available upon request by a party or it is given in compliance with [TREC Rule] 535.17;
12. That implies the person making the advertisement was involved in a transaction regarding a property when the person had no such role;
13. About a property that is subject to an exclusive listing agreement without the permission of the listing broker and without disclosing the name of the listing broker unless the listing broker has expressly agreed in writing to waive disclosure;
14. Offering a listed property that is not discontinued within 10 days after the listing agreement is no longer in effect;
15. About a property 10 days or more after the closing of a transaction unless the current status of the property is included in the advertisement;
16. That offers to rebate a portion of a license holder's compensation to a party if the advertisement does not disclose that payment of the rebate is subject to the consent of the party the license holder represents in the transaction;
17. That offers to rebate a portion of a license holder's commission contingent upon a party's use of a specified service provider, or subject to approval by a third party such as a lender, unless the advertisement also contains a disclosure that payment of the rebate is subject to restrictions;
18. That offers or promotes the use of a real estate service provider other than the license holder and the license holder expects to receive compensation if a party uses those services, if the advertisement does not contain a disclosure that the license holder may receive compensation from the service provider;
19. That ranks the license holder or another service provider unless the ranking is based on objective criteria disclosed in the advertisement; or
20. That states or implies that the license holder teaches or offers Commission approved courses in conjunction with an approved school or other approved organization unless the license holder is approved by the Commission to teach or offer the courses."

Create Your Policies and Procedures

Write what you would include in your brokerage's policies and procedures manual related to advertising rules and sponsored agents' use of social media.



Artificial Intelligence and Broker Responsibility

Artificial Intelligence (AI) is everywhere in the news. Unsurprisingly, it has become a big topic of conversation when it comes to the real estate industry.

Whether you as a broker fear it or welcome it, you must make sure you have considered its presence in your practice and what your policies and procedures say about it.

How Does AI Factor Into Real Estate Brokerage?

The use of AI in real estate brokerage is seemingly endless, in large part because it is so new. There are brokerages who use it for advertising, compliance, chat bots, and more. One area where AI is coming into play is sales agent training. Some brokerages have utilized AI for creating descriptions of property. Without a doubt, AI use in real estate will continue to evolve, but one thing won't—broker responsibility.

Any acts of real estate brokerage are the responsibility of the broker. That means if you use an AI platform for advertising, it must be compliant with state law and TREC rules on advertising. A violation of either will result in

disciplinary action against the sales agent and broker.

If you utilize AI as part of your sales agent training, you must ensure that the training is accurate and that your sales agents are receiving the correct information so that mistakes are not made in practice.

AI and Due Diligence

As with any new tool, there are those who will find a way to use it for ill gain. Nationwide, real estate regulators are seeing instances of AI being used to impersonate license holders or even to create fictional sellers and listings.

AI and Real Estate Scams

There are many cautionary tales throughout the country and even internationally regarding real estate scams and AI. Often, these scams are tied to wire fraud. There have been instances of consumers transferring large sums of money in connection with a real estate transaction with properties and sellers that were AI generated, some even including AI calls and video chats that appeared very real. What can a license holder do to protect

his or her client from scams like this? Below are some tips.

- Stay current with news reports on AI scams, particularly those related to real estate or related real estate industries (e.g., mortgage industry).
- Alert your clients to the various AI real estate scams going on throughout the country.
- Know the warning signs of an AI scam. This can include reluctance on the part of a sales agent or property owner to meet in person.
- Research and visit the property at issue in the transaction.

As with any transaction, license holders must do their due diligence to maintain their fiduciary duty to their clients. If a license holder fails to do so, they may end up in violation of state law and TREC rules.

AI for Drafting Contract Form Language

There are a lot of AI tools out there that provide legal resources. With a simple search, you can find thousands of AI generated contract terms and even court cases that might support a decision your client wants to make. As a reminder, TREC Rule 537.11 prohibits license holders from practicing law. While it may seem easy to ask AI to generate the exact language a license holder thinks his or her client might want, there is a real risk of engaging in the unauthorized practice of law and providing the client with language that is not legally sufficient for the client's stated objective.

AI and Fair Housing

As is true with any outside technology or tools a license holder uses in their practice, the license holder must ensure compliance with all state and federal laws. When it comes to AI and fair housing, license holders must be vigilant that any AI-generated product they use, whether it is image generation or drafted language, is not in violation of fair housing laws.

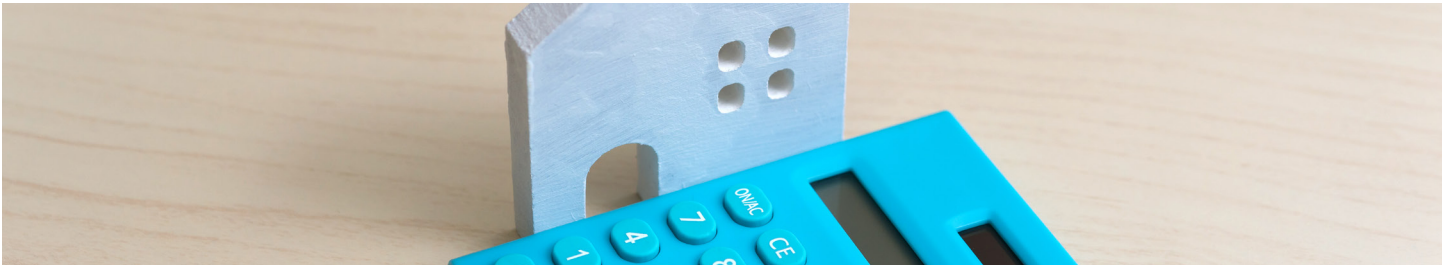
In 2024, the U.S. Department of Housing and Urban Development issued two guidance documents related to AI and fair housing. You can find these documents at [hud.gov/press/press_releases_media_advisories/hud_no_24_098](https://www.hud.gov/press/press_releases_media_advisories/hud_no_24_098). The documents address the use of AI in tenant screening and advertising. As a broker, it is your responsibility to make sure any sponsored sales agent utilizing AI does so in compliance with fair housing laws. These guidance documents are one of many resources available to assist brokers with ensuring compliance.

AI Takeaways for Brokers

As a broker, make sure you stay on top of AI innovations within the real estate industry. Let your sponsored sales agents know to be on the lookout for scams and misinformation generated by AI. Make sure your sponsored sales agents are doing their due diligence to ensure they are dealing with real individuals so they can protect their clients. Make sure your sponsored sales agents are not utilizing AI as a tool for drafting contract language in violation of TREC rule 537.11 and state law. Know how your sponsored agents are using AI and ensure compliance with fair housing laws. AI can be an incredible tool, but it is not perfect. As the broker, it is your responsibility to ensure your sponsored sales agents are using AI responsibly and in compliance with the law.

With the growing popularity of AI, it is a good idea to review your written policies and procedures to make sure they provide guidance about AI for your sponsored sales agents. Whether it's to fully embrace the use of AI at your brokerage or to install some guardrails, the broker should apprise their sponsored sales agents of the brokerage's position. This emerging technology has a lot of promise, but like most things, it is not without risk.

Most importantly, know that violations of TREL A or TREC rules associated with license holder engagement with AI are treated the same as any violation—the broker is ultimately responsible.



BPOs, CMAs, and Appraisals: What's the Difference?

With countless valuation products, it's important to understand the differences and the legal requirements of each.

Appraisals

Appraisals are used in a variety of situations, including mortgage finance transactions, court proceedings, and for asset management purposes.

Appraisals provide an unbiased opinion of value. They can only be completed by a licensed or certified appraiser. In addition, appraisal reports must comply with the Uniform Standards of Professional Appraisal Practice (USPAP). USPAP is the national standard for appraisal practice and outlines ethical and performance requirements for appraisers.

In each appraisal report, appraisers must sign a certification stating that they have complied with USPAP. Appraisals are regulated by the Texas Appraiser Licensing and Certification Board (Board). The Board promulgates rules and follows federal directives from the Appraisal Subcommittee.

In summary, appraisals:

- Provide an opinion of value.
- Can only be completed by licensed or certified appraisers.
- Must comply with USPAP.

Broker's Price Opinions and Comparative Market Analyses

At the outset of a real estate transaction, sellers want to be able to quickly establish

a listing price for their property. A broker's price opinion (BPO) or comparative market analysis (CMA) provides an estimate of price. They can be provided by a licensed broker or sales agent, but if being provided by a sales agent, it must be submitted in the broker's name and the broker is responsible for it.

A license holder is obligated to provide a BPO or CMA on a property when negotiating a listing. A license holder is also required to provide a BPO or CMA when offering to purchase the property for the license holder's own account as a result of contact made while acting as a real estate agent.

A BPO or CMA is not an opinion of market value. They are regulated by the Texas Real Estate Commission (TREC). Under TREC rules, a broker's price opinion must include the following disclaimer in at least 12-point font:

"This represents an estimated sale price for this property. It is not the same as the opinion of value in an appraisal developed by a licensed appraiser under the Uniform Standards of Professional Appraisal Practice."

TREC Rule 535.2(h)(7) requires a broker to keep a BPO or CMA on file for four years from the date of closing, termination of the contract, or end of a real estate transaction.

In summary, BPOs and CMAs:

- Provide an estimated sales price.
- Can only be completed by a licensed broker or sales agent.
- Must include a disclosure statement.
- Must be on file for four years.



Not Sure if You Want to Renew Your License? Here's Why You May Want to go Inactive

Sometimes a license holder wants or needs to take a break from the industry. If you take no action to renew your license as active or inactive, your license will eventually expire.

An expired license is not a current license. Once your license has been expired for more than two years, you will have to reapply for your license and follow any current requirements for education and examination. Essentially, you will undergo the license application process all over again, including a full background check, with whatever new rules are in place when you return.

Inactive licenses are current licenses. Although you must still pay to renew your license every two years while on inactive status, you can do so without completing continuing education (CE). Keeping your license current—even on inactive status—means you won't have to start over and retake the licensing exam.

Do's and Don'ts for Going on Inactive Status

- Do keep your contact information up to date with TREC, even if you are inactive.

- Don't engage in real estate brokerage activities while you are on inactive status.
- Don't negotiate a real estate transaction between third parties or you could be subject to disciplinary action by TREC.
- Don't collect referral fees or commissions unless these fees were earned while you were on active status.

CE Requirements: What Sales Agents and Brokers Returning From Inactive Status Need to Know

When you are ready to return to real estate brokerage activities, you will need to complete your required CE first and then submit a request to activate your license. If you're a sales agent, you will need to request that a broker sponsor you.

The Real Estate License Act (TRELA) requires license holders who want to return to active status to provide to TREC proof of completion of CE during the two years preceding the date the application to return to active status is filed.

TREC calculates CE credits in these scenarios by going back two years from the date the license holder applies to go active—for both sales agents and brokers. It does not matter if you go inactive for an hour, a day, a week, or more, and even a recent renewal will not factor into whether you are required to take additional education hours to return to active status.

How Does This Affect Sponsoring Brokers?

Aside from how this could impact a broker individually, the CE requirement for sales agents who want to return to active is relevant to sponsoring brokers in a couple of ways. Because a sales agent is automatically set to inactive when a sponsoring broker terminates the relationship, there are considerations a broker must make when taking on new sales agents and when a sales agent moves to another brokerage.

Sales agents who want to switch brokers will need to do so in a certain order if they do not want their license to be set to inactive and be required to take CE before being set to active. That means that if you are going to be sponsoring a sales agent who is already with another broker, that sales agent will need to submit a request for change in sponsoring broker before severing their relationship with their current broker. If you are the current broker and you have an agent wishing to change brokerages, you can advise them to first request the new sponsoring broker so they do not get set to inactive.

If you are a sponsoring broker who has certain policies in place where you will sever the relationship with a sponsored agent for failing to complete a certain task or make a certain payment, you must be mindful that a termination of that relationship may require the sponsored agent to take CE before they can become active again.

Is the Required CE Needed to Return to Active Considered "Extra CE"?

No. Any CE required to set the license back to active will count towards that license holder's next renewal. One way to think about it is that the license holder is getting a head start on their next renewal. While that is likely not how the license holder planned on completing that CE, it is ultimately credited towards the next renewal.

Here's The Math

Sales agent Nee Winn completed all her required CE on February 1, 2022.

Nee renewed her license on January 3, 2024. But, as of February 2, 2024, Nee's CE completion date is now more than two years old.

It's now February 7, 2024, and Nee, who is



currently sponsored by Broker Sloane Quincy, is moving to a new brokerage and will be sponsored by Broker Joan Cohen.

If Nee goes inactive now by terminating her relationship with Broker Sloane, she will have to obtain new CE—even though she just renewed her license—once she applies to go active with Broker Joan. Even if Nee goes inactive for only a day, she still will be required to take CE to go active.

What Should Nee Do?

Before terminating her relationship with Broker Sloane and going inactive, Nee should check her CE completion date.

If she doesn't want to take additional education hours at this time, she should first request sponsorship from Broker Joan before going inactive. When Broker Joan accepts Nee's request, Nee's license will switch from Broker Sloane to Broker Joan without ever going inactive. Nee can still fulfill her requirement to notify Broker Sloane about moving to a new brokerage without terminating her current broker sponsorship relationship and going inactive.

The Good News

This process may result in frustration for license holders, especially those who did not realize they would need to take CE as a result of switching brokers (again, this is only if they sever the relationship with the current broker before requesting the new broker).

The good news is that this process ensures no one goes more than two years on active status without taking CE, resulting in license holders who are better equipped to deal with current-day issues. This is true with any license that is set to inactive. So, if someone has been inactive for any amount of time, even years, they must be compliant with current CE requirements. This not only supports a more professional and current industry, it also protects the consumer.

Create Your Policies and Procedures

What are your expectations for using AI in your brokerage? Do you have guidance for conducting BPOs and CMAs? What would you add about terminating a sponsorship and its potential effect on a sales agent's license status?

Chapter 5

TREC Enforcement



- 65 Who Handles Complaints and Discipline?
- 67 Advertising Compliance Program
- 68 Top TREC Complaint Categories
- 69 From the Case Files: Filed Under Misc.
- 71 Your Policies and Procedures Summary Sheet

Learning Objectives

After this chapter, you will be able to

- ✓ Describe the TREC complaint process from the perspective of the license holder and TREC.
- ✓ Identify enforcement trends.
- ✓ Provide examples of the types of complaints that would be addressed by the TREC advertising compliance program.



Who Handles Complaints and Discipline?

The Enforcement Division of the Texas Real Estate Commission protects consumers by enforcing the laws and rules that regulate license holders. The Enforcement Division administers the complaint investigation program, disciplinary enforcement program, and the background check process for applicants and license holders.

The Enforcement Division is comprised of attorneys, legal assistants, investigators, and other administrative staff. In 2024, there were 5,999 cases opened by Enforcement and an 8.25% increase in complaints filed against brokers and sales agents compared to 2023.

The Complaint Process

Filing a complaint with TREC is the first step in the enforcement process. Anyone can file a complaint against a license holder, even other license holders.

Complaints must be submitted in writing and signed by the complainant. A complainant should hear back from the Enforcement Division within 30 days about whether it will proceed with opening and investigating the allegations in the

complaint. If an investigation is opened, each person against whom the complaint is filed receives a copy of the complaint. Every individual subject to a complaint is required to cooperate with the investigation.

Any inquiry from TREC requires a response within 14 days. Failure to cooperate with the investigation will result in disciplinary action against the license holder. A sponsoring broker should be prepared to talk about how they supervise their sponsored sales agent, including providing policies and procedures that address the issues that are alleged in the complaint.

Following the investigation, the information collected during the investigation will be turned over to an attorney for review. If the attorney determines that a violation occurred and there is sufficient evidence to support the violation, discipline will be pursued. Disciplinary action can include formal reprimand, suspension, or revocation of a license, including payment of an administrative penalty. Additionally, depending on the severity of the violation, an advisory letter might be issued. An advisory

letter is a form of informal discipline that will remain a part of the license holder's disciplinary record. A license holder's past complaint and disciplinary history is taken into consideration and can be used against the license holder in any future complaints.

Why Can't TREC Complaints Be Anonymous?

Chapter 1101 of the Texas Occupations Code prohibits the agency from investigating anonymous complaints. The reason behind this prohibition is that complaint respondents (those who have a complaint filed against them) are entitled to due process when it comes to formal disciplinary action taken by the government (TREC) against their license. Complaints filed with TREC can have implications for an individual's license, which is required to conduct brokerage activities in Texas. For most license holders, this means their business and their livelihood.

To ensure each complaint respondent receives due process before any formal discipline is taken against their license, TREC must adhere to certain processes and comply with all applicable laws related to a respondent's opportunity to respond to the allegations against them and have a formal hearing should they so choose.

Complaints can affect an individual's licensure and ability to run their business. In fact, the Enforcement Division must treat each complaint as though it might reach the State Office of Administrative Hearings, or SOAH (pronounced "so-ah"). This is the administrative law court that hears cases from state agencies like TREC, and where respondents have their opportunity to defend themselves.

Not all complaints make it to SOAH; many are closed with an agreed order. In an agreed order, a respondent neither admits nor denies wrongdoing and agrees to comply with TREC's terms, such as paying an administrative fine, taking additional education courses, or even having their

license suspended or revoked.

However, all respondents have the right defend themselves against a complaint and choose to have a hearing before SOAH. This right to a hearing exists for all types of complaints ranging from technical infractions (e.g., advertising issues) to more serious allegations (e.g., fraud or misrepresentation).

In a SOAH hearing, TREC staff attorneys lay out the Commission's case against a license holder to an administrative law judge. The respondent also has a chance to go before the administrative law judge and provide evidence in their defense.

Typically, the administrative law judge will issue a PFD, or a Proposal for Decision, summarizing the findings of fact and conclusions of law from the hearing. PFDs are presented to the nine Commissioners during TREC Meetings. This is yet another opportunity for a respondent to speak in their defense, and for the TREC Enforcement Division staff attorneys to explain evidence and the investigation.

Ultimately, the Commissioners vote on whether to accept the PFD as written, make modifications, or reject it. The Commissioners must remain neutral, and cannot consider factors outside of what is written in a PFD. This is why it is prohibited to contact Commissioners if you are a respondent to an open complaint, as that may result in their recusal from a potential hearing. Importantly, this prohibition goes both ways and Enforcement Division staff are also prohibited from discussing an open complaint with Commissioners.

Think about it this way: When you get a speeding ticket, you have a right to a hearing. The reason that you might potentially go to court to contest your speeding ticket is to prove that you deserve to keep your license, avoid a fee, or otherwise protect your ability to drive. A complaint filed with the TREC works similarly and is taken seriously by staff, not only to protect the consumer, but also to ensure each respondent in a case receives due process.



Advertising Compliance Program

Many advertising-related complaints can be handled easily, from adding missing brokerage information on *for sale* signs to registering a team name or DBA after failing to do so to adding missing required links on a license holder's website. Because of these simple remedies, TREC launched the Advertising Compliance Program in 2023 to streamline processing complaints that deal only with advertising violations. The goal of the new program is to promote compliance, not punishment.

TREC Complaint Form Now Includes Advertising Checkbox

TREC Enforcement staff has modified the complaint form to add a checkbox for advertising complaints. This will allow staff to quickly identify complaints that may be eligible for processing through the Advertising Compliance Program.

To indicate you are filing an advertising complaint, check the "yes" box next to the new field "Does your complaint allege or deal with advertising issues?" on the updated complaint form.

How TREC Staff Applies the Advertising Compliance Program

Step 1: Assess the Complaint

- **If there are allegations beyond advertising**, the complaint will go through the normal complaint investigation process.
- **If the allegations are only about advertising violations**, the complaint will be handled at TREC headquarters versus being assigned to a field investigator.

Step 2: Alert the Respondent

The license holder and sponsoring broker, if applicable, will be notified in writing of the issue and given 14 days to correct it. The license holder must also provide documentation to staff that the advertising violations have been corrected.

Step 3: Monitor the 14-Day Timeline

- **If license holders correct within 14 days**, the case will be dismissed as a matter settled and no formal disciplinary action would be held.
- **If license holders fail to comply with the 14-day deadline**, they would have their complaint reviewed again by a staff attorney for further action, which could include an advisory letter or formal discipline. Staff may grant additional time for compliance.

Top TREC Complaint Categories

The TREC Enforcement Division compiles data monthly regarding complaints received. The list below shows the top five complaint categories as of publication. Complaints do not always result in disciplinary action. Here is a brief explanation of each category.

Sales, Other (unrelated to leasing and property management): Includes negligence, rebates, referrals, earnest money issues, and so forth.

Breach of Fiduciary Duty: Includes false promises and other fiduciary issues like the topics covered earlier in this course.

Licensure Issues: Consists of criminal background checks that uncover criminal offenses, denials based on criminal history, licenses issued on a probationary status, and so forth.

Broker Supervision: Complaints under this category deal with alleged violations of TREC Rule 535.2 or other activities related to broker oversight, such as the requirements outlined in this course.

Leasing/Property Management: Involves issues such as negligence, referrals, misappropriation of money, and so forth.

Common Enforcement Violations

- Failure to cooperate with an investigation
- Negligence or incompetence issues
- Bad faith/misrepresentation
- Inactive/expired license holder activity
- Unlicensed business entities
- Trust fund issues (property management)
- Failure to disclose criminal offenses
- Broker responsibility issues

From the Case Files

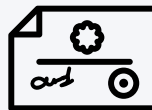


Missed Deadline, Caught Reprimand

A buyer who signed a sales contract later notified their sales agent they wanted to terminate it because the buyer's loan application was denied.

- Sales agent delivered the *Notice of Termination of Contract* to the listing agent one day after the deadline to terminate, despite receiving the notice the day before.
 - Agent thought he had to include the lender's denial letter to terminate. This letter was not received until the day after deadline.
 - Seller would not sign the *Release of Earnest Money* form because of untimely intent to terminate.

Agent was reprimanded, ordered to pay \$1,500 penalty, and ordered to complete 30 hours of a contract law course.



Boldly Unlicensed

Bottom line: A broker-poseur was assisting with leasing properties in exchange for money—without a real estate license. The individual was ordered to stop all unlicensed activity and issued a \$10,000 penalty.

- What happened: Through Facebook, the person was advertising tax services, rental properties, and lease application services in exchange for fees.
- Individual posted new advertisements on Facebook even after being approached by the Commission.

From the Case Files



Listing Agent is the Seller—Shh!

In this case, a business entity is the owner and seller of the property. The listing agent did not disclose in writing to the buyer that the agent was a managing member of that business entity selling the property. Listing agent instead told the buyer that the seller was an “older woman wanting to downsize.”

Agent received a probated license suspension for one year, \$2,000 penalty, and ordered to take 30 hours of a principles of real estate course.



Competing Offers ... From Buyers and Their Agent

A sales agent submitted an offer on the same property as her clients, without letting them know. Seller ended up accepting agent’s clients’ offer.

- Buyers paid \$200 option fee for right to terminate contract.
- Agent wrote “0” days in notice period—negligently annulling buyers’ right to terminate.
- Reprimand: \$2,000 penalty, complete eight-hour TREC Legal Update I and II courses.

The agent’s sponsoring broker was also reprimanded and ordered to pay a \$500 penalty.



Marketing Faux Pas

A sales agent advertised a property that was already under an exclusive listing agreement with another broker. The agent marketed the property by email saying he was working with the seller. This marketing was done without the knowledge and consent of the property owner or the owner’s agent.

The agent was reprimanded, ordered to pay a \$1,000 penalty, and ordered to complete 30 hours of an agency law course.



Tyrant Tenants, Bystander Broker

An agent’s license was revoked because she knowingly participated in a scheme to submit fraudulent lease applications. The purpose was to place unqualified applicants into single-family homes by submitting qualifying information of another person. She did this for eight properties between May and July of 2022.

- The agent’s conduct caused irreparable harm to the property owners.
- Many of the occupants were late in paying or didn’t pay rent, had to be evicted, and/or caused property damage.
- Her sponsoring broker admitted to not reviewing her lease documentation.
 - He understands that a broker is responsible for ensuring sponsored agents exercise competence and integrity.
 - The sponsoring broker was reprimanded, ordered to pay a \$500 penalty, and ordered to complete the Broker Responsibility course.

From the Case Files



A Long But Educational One

Bottom line: A sales agent implied she was responsible for the operation of a brokerage.

- She failed to register an alternate name with the Commission before using it in an ad.
- She used a team name in an ad before it was registered with TREC.
- Acted negligently as an agent.

What happened:

- The agent submitted an offer that didn't include who she represented, her broker's name and license information, or her own name and license information.
- The contract was illegible.
- The seller didn't sign the contract, and the agent never informed her clients (the buyers) of this.
- Agent used a broker's name and group name not registered with the Commission in her email signature.
- She also indicated she was the "owner" of the group despite not holding a broker license.

The agent was reprimanded, assessed a \$2,300 penalty, and ordered to take 30 hours of a contract law course.

Create Your Policies and Procedures

Are there policies and procedures you would address related to the top complaints TREC receives, or takeaways from the final case studies? Add them below.

Your Policies and Procedures Summary

Use the notes you took throughout the course to outline your own policies and procedures.

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