

# Appendix A

## TREC Rule §535.2 – Broker Responsibility

- (a) A broker is required to notify a sponsored sales agent in writing of the scope of the sales agent's authorized activities under the Act. Unless such scope is limited or revoked in writing, a broker is responsible for the authorized acts of the broker's sales agents, but the broker is not required to supervise the sales agents directly. If a broker permits a sponsored sales agent to conduct activities beyond the scope explicitly authorized by the broker, those are acts for which the broker is responsible.
- (b) A broker owes the highest fiduciary obligation to the principal and is obliged to convey to the principal all information known to the agent which may affect the principal's decision unless prohibited by other law.
- (c) A broker is responsible for the proper handling of trust funds placed with the broker and must comply with §535.146 of this title.
- (d) A broker is responsible for any property management activity by the broker's sponsored sales agent that requires a real estate license.
- (e) A broker may delegate to another license holder the responsibility to assist in administering compliance with the Act and Rules, but the broker may not relinquish overall responsibility for the supervision of license holders sponsored by the broker. Any license holder who leads, supervises, directs, or manages a team must be delegated as a supervisor. Any such delegation must be in writing. A broker shall provide the name of each delegated supervisor to the Commission on a form or through the online process approved by the Commission within 30 days of any such delegation that has lasted or is anticipated to last more than three consecutive months. The broker shall notify the Commission in the same manner within 30 days after the delegation of a supervisor has ended. It is the responsibility of the broker associate or newly licensed broker to notify the Commission in writing when they are no longer associated with the broker or no longer act as a delegated supervisor.
- (f) Listings and other agreements for real estate brokerage services must be solicited and accepted in a broker's name.
- (g) A broker is responsible to ensure that a sponsored sales agent's advertising complies with §535.154 and §535.155 of this title.
- (h) Except for records destroyed by an "Act of God" such as a natural disaster or fire not intentionally caused by the broker, the broker must, at a minimum, maintain the following records in a format that is readily available to the Commission for at least four years from the date of closing, termination of the contract, or end of a real estate transaction:
  - (1) disclosures;
  - (2) commission agreements such as listing agreements, buyer representation agreements, or other written agreements relied upon to claim compensation;
  - (3) substantive communications with parties to the transaction;
  - (4) offers, contracts and related addenda;
  - (5) receipts and disbursements of compensation for services subject to the Act;
  - (6) property management contracts;
  - (7) appraisals, broker price opinions, and comparative market analyses; and
  - (8) sponsorship agreements between the broker and sponsored sales agents.
- (i) A broker who sponsors sales agents or is a designated broker for a business entity shall maintain, on a current basis, written policies and procedures to ensure that:
  - (1) Each sponsored sales agent is advised of the scope of the sales agent's authorized activities subject to the Act and is competent to conduct such activities, including competence in the geographic market area where the sales agent represents clients.
  - (2) Each sponsored sales agent maintains their license in active status at all times while they are engaging in activities subject to the Act.
  - (3) Any and all compensation paid to a sponsored sales agent for acts or services subject to the Act is paid by, through, or with the written consent of the sponsoring broker.

- (4) Each sponsored sales agent is provided on a timely basis, before the effective date of the change, notice of any change to the Act, Rules, or Commission promulgated contract forms.
- (5) In addition to completing statutory minimum continuing education requirements, each sponsored sales agent receives such additional educational instruction the broker may deem necessary to obtain and maintain, on a current basis, competency in the scope of the sponsored sales agent's practice subject to the Act. At a minimum, when a sales agent performs a real estate brokerage activity for the first time, the broker must require that the sales agent receive coaching and assistance from an experienced license holder competent for that activity.
- (6) Each sponsored sales agent complies with the Commission's advertising rules.
- (7) All trust accounts, including but not limited to property management trust accounts, and other funds received from consumers are maintained by the broker with appropriate controls in compliance with §535.146.
- (8) Records are properly maintained pursuant to subsection (h) of this section.
- (j) A broker or supervisor delegated under subsection (e) of this section must respond to sponsored sales agents, clients, and license holders representing other parties in real estate transactions within two calendar days.
- (k) A sponsoring broker or supervisor delegated under subsection (e) of this section shall deliver mail and other correspondence from the Commission to their sponsored sales agents within three calendar days after receipt.
- (l) When the broker is a business entity, the designated broker is the person responsible for the broker responsibilities under this section.
- (m) This section is not meant to create or require an employer/employee relationship between a broker and a sponsored sales agent.

## Notice of Delegation of Supervising License Holder

A horizontal bar chart with 10 bars of varying lengths, representing the frequency of responses for each rating from 1 to 10. The bars are arranged in a row, with the longest bar at rating 5 and the shortest bars at ratings 1 and 10.

Schedule B (continued)	
12. Government: state, federal, etc. Government body that provides state, federal, etc. information that was provided to you.	
13. Other: organization or individual that provided information about the information that is the government body's responsibility.	
14. Other: person, firm, etc. that provided information that the individual is entitled to receive under the information.	
15. Other: person, firm, etc. that provided information that the individual is entitled to receive under the information that is the government body's responsibility.	

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# Appendix C

## Answers to The Dirty Dozen Questions a Broker Should be Able to Answer

- 1. Why can't the Addendum Concerning Right to Terminate Due to Lender's Appraisal be used for a VA or FHA loan? Compare to paragraph 4 of the Third Party Financing Addendum.** With VA or FHA loans, federal law has specific requirements and qualifications for the sales price to meet the appraised value. This is called the amendatory clause. This requirement was created to protect the interests of FHA and VA buyers. The FHA and VA buyer have the right not to close if the property does not appraise for the agreed upon sales price. A buyer can pay the difference between the appraised value and the contract price if they have funds and choose to. The Addendum Concerning Right to Terminate Due to Lender's Appraisal cannot be used for an FHA or VA buyer because using it would create a conflict with federal law.
- 2. How do I find information needed for the Addendum Containing Notice of Obligation to Pay Improvement District Assessment (PID notice) and why do I have to do this?** The information is found in many places. Hopefully, by the end of 2022, all the public improvement districts (PIDs) will have filed this information with their county clerk as required by the Texas Local Government Code. Until that time, you can check the county appraisal district and see if the PID is one of the taxing entities in the record for the subject property. Some tax assessors have created a link to a list of the PIDs in their county. In other counties, the PIDs are listed on the city's website. The form is required by section 5.014 of Texas Property Code.
- 3. Who puts the effective date on the TREC sales contract and when?** The broker (or if authorized by the broker, another license holder) holding the contract when the last signature and initial have been obtained and ONLY IF the license holder has given notice to the other party indicating that the contract is signed and executed, effective "date and time." To be safe, inform the other side via voicemail, text, email, messenger and/or carrier pigeon. Cover all your bases!
- 4. How do you count days in the TREC sales contract?** The effective date is day zero. All days are calendar days except for the exceptions spelled out in Paragraph 5 for the earnest money and option money. All deadlines are midnight except for the notice of buyer's termination pursuant the right to terminate created by the option fee and that deadline is 5 pm. If there is a time zone difference, the applicable time zone is that of the subject property.
- 5. What do I do if the Seller's Disclosure Notice is not fully and properly filled out?** If you are the seller's agent, request that the seller fill in all the information that they have and all that is known to the seller. If you are the buyer's agent inform your buyer that some items are not completed on the seller's disclosure. Ask the listing agent for a completed seller's disclosure.
- 6. Does the "back-up" contract really require earnest money and option money to be paid and, if so, when?** ABSOLUTELY! The earnest and option money must be paid when the back-up offer is accepted according to deadlines in paragraph 5.
- 7. The property didn't meet the underwriter's requirements but it's outside of the buyer's number of days for buyer approval. What can the buyer do?** The Third-Party Financing Addendum contains paragraph 2.B, Property Approval, which makes the property subject to the lender's underwriting requirements. The ability to terminate under the property approval paragraph is separate from the buyer approval paragraph.

Under the property approval paragraph, if the lender determines that the property does not satisfy the underwriting requirements, the buyer can terminate not later than three days before closing. In order to do so, the buyer needs to do two things: send a termination notice and a copy of a written statement from the lender giving the reason for the lender's determination.

8. **In the Addendum for Property Subject to Mandatory Membership in a Property Owners Association, what do the choices for documents really mean? And why would anyone even need the subdivision information?** The subdivision information is more than a copy of the deed restrictions. Subdivision information includes the resale certificate. The information contained in a resale certificate includes:

- \* Notice of existence of a right of first refusal
- \* The current assessment
- \* Any special assessments
- \* Total of any capital expenditures for the year
- \* Unsatisfied judgments against the property owners' association
- \* Reserves for capital expenditures
- \* Notification of any pending lawsuits
- \* Knowledge of any violations of the deed restrictions by the property
- \* Knowledge of any violations of health or building codes by the property
- \* The amount of any transfer fee charge when ownership is transferred

The Addendum for Property Subject to Mandatory Membership in a Property Owners Association provides four options for delivery of the subdivision information. The first option has the seller obtaining, paying for, and delivering the subdivision information. The second option has the buyer obtaining, paying for, and delivering the subdivision information. The third option has the buyer acknowledging receipt of the subdivision information before signing the contract and choosing to either request an updated resale certificate or decline one. The fourth option allows the buyer to decline delivery of the subdivision information.

Option one and two give the buyer three days to terminate the sales contract after receiving the subdivision information. There are separate termination rights if the subdivision information is not received.

9. **You've got gas? Where does it go? Is there a form for that?** The Addendum for Reservation of Oil, Gas, and Other Minerals

Oil, gas, and other minerals are part of the land. Unless previously severed from the ownership interest of the seller, the subsurface or mineral interest, which includes oil, gas, and other minerals, would convey to the buyer with the rest of the real property.

Sometimes sellers want to keep the mineral rights. If this is the case, the seller would use the Addendum for Reservation of Oil, Gas, and Other Minerals.

This form gives the seller the option of reserving all the subsurface rights the seller owns. It also gives the seller and buyer the option of dividing the seller's mineral rights between them.

Paragraph B contains two checkboxes related to seller's retention of the mineral estate. The seller can only retain an interest in what seller actually owns. If the seller owns only half of the mineral estate due to previous conveyances or reservations, the seller could only retain at most that half of the mineral estate. Further, if the seller who does own only half of the mineral rights, negotiates to transfer half of the seller's interest to the buyer and retain the other half of the seller's mineral interest, there would be at least three mineral right owners. The first owner (or owners) would have a 50% interest, while the buyer and seller would each have a 25% interest in the minerals.

Paragraph C addresses the right to access the property through rights of ingress and egress. This is a crucial issue to be addressed when discussing mineral estates in Texas.

10. **What can the buyer object to in paragraph 6D?**

The buyer may object to defects, exceptions, or encumbrances to title disclosed on the survey (other than items 6A(1) – (7) below) or in the title commitment (other than items 6A(1) – (9) below). Additionally, a buyer can object to defects or encumbrances specifically listed in the blank of paragraph 6D, which prohibit certain use of the property, like for a business or that a pool fit in the backyard.

Paragraph 6A of the contract lists the following exceptions:

- (1) Restrictive covenants common to the platted subdivision in which the property is located.
- (2) The standard printed exception for standby fees, taxes, and assessments.
- (3) Liens created as part of the financing described in Paragraph 3.
- (4) Utility easements created by the dedication deed or plat of the subdivision in which the property is located.
- (5) Reservations or exceptions otherwise permitted by this contract or as may be approved by buyer in writing.
- (6) The standard printed exception as to marital rights.

- (7) The standard printed exception as to waters, tidelands, beaches, streams, and related matters.
  - (8) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments, or protrusions, or overlapping improvements.
  - (9) The exception or exclusion regarding minerals approved by the Texas Department of Insurance.
11. **What do you mean the seller has to fix it?! Wind from a hurricane rips off a section of the roof while a property is under a contract. What does TREC's One to Four Family Residential Contract (Resale) say about a casualty loss?** Paragraph 14 of TREC's One to Four Family Residential Contract (Resale) creates an agreement between the buyer and the seller should any part of the property be damaged or destroyed by a casualty after the effective date of the contract. The seller agrees in this paragraph to restore the property to its previous condition as soon as reasonably possible, but by the closing date. Well, what if seller doesn't or can't perform by the closing date? The buyer may:
- a) terminate the contracts and receive a refund of the earnest money;
  - b) extend the time for performance up to 15 days, extending the closing date as necessary; or
  - c) accept the property in its damaged condition with an assignment of insurance proceeds and receive credit from seller at closing for the amount of the seller's deductible under the insurance policy. Of course, this could only happen with approval of seller's insurance company.
12. **The seller turned off the utilities 3 days before closing. The buyer wants to have an inspector verify required repairs have been done. What now?** Paragraph 7A of the contract provides that "Seller at Seller's expense shall immediately cause existing utilities to be turned on and shall keep the utilities on during the time this contract is in effect". The Seller needs to get the utilities turned back on for the duration of the contract.



# Appendix D

## The Consumer Protection Notice (CN 1-4) Effective April 1, 2022

THE TEXAS REAL ESTATE COMMISSION (TREC) REGULATES  
REAL ESTATE BROKERS AND SALESAGENTS, REAL ESTATE BROKERAGE,  
ASSISTANT AND AGENT CONTRACT AGREEMENTS,  
AND REAL ESTATE INTEREST PROVISIONS.  
YOU CAN FIND MORE INFORMATION AND  
CHECK THE STATUS OF YOURS AT [WWW.TREC.TEXAS.GOV](http://WWW.TREC.TEXAS.GOV)

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THIS CONTRACT IS SUBJECT TO THE TREC RULES AND REGULATIONS  
WHICH ARE AVAILABLE ON THE TREC WEBSITE

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THE REALTOR HAS BEEN ADVISED THAT THE REALTOR HAS A DUTY TO  
OBTAIN A WRITTEN CONTRACT FROM THE REALTOR, AND THAT THE REALTOR  
MAY BE SUBJECT TO A FINE OF UP TO \$10,000 FOR VIOLATING THE TREC  
RULES AND REGULATIONS. THE REALTOR HAS BEEN ADVISED THAT THE  
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UP TO \$10,000 FOR VIOLATING THE TREC RULES AND REGULATIONS.

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IF YOU HAVE QUESTIONS OR NEED HELP, CONTACT THE TREC AT  
1-800-695-2737, THE TREC WEBSITE, OR THE  
TREC OFFICE, 1000 WEST 10TH STREET, SUITE 1000

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 TEXAS REAL ESTATE COMMISSION  
P.O. BOX 13700  
AUSTIN, TEXAS 78713-1700  
(512) 682-2000

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# Appendix E

## Information About Brokerage Services (IABS)



### Information About Brokerage Services

Read this document carefully before you decide whether to buy or sell securities or to open, maintain, or close a securities account with a broker-dealer.



#### What Is This Document About?

- This document contains information about the services that broker-dealers provide to investors.
- It also contains information about the risks and costs of investing with a broker-dealer.

#### Why Should I Read This Document Before I Decide Whether to Buy or Sell Securities?

- This document contains information about the services that broker-dealers provide to investors.
- It also contains information about the risks and costs of investing with a broker-dealer.
- It contains information about the risks and costs of investing with a broker-dealer.
- It contains information about the risks and costs of investing with a broker-dealer.

#### What Should I Know Before I Decide Whether to Buy or Sell Securities?

Before you decide whether to buy or sell securities, you should know that there are risks involved in investing with a broker-dealer. These risks include the risk that the broker-dealer will not be able to execute your orders, the risk that the broker-dealer will not be able to deliver the securities you have ordered, and the risk that the broker-dealer will not be able to return your money if the broker-dealer goes bankrupt.

There are also risks involved in investing with a broker-dealer that are not mentioned in this document. These risks include the risk that the broker-dealer will not be able to execute your orders, the risk that the broker-dealer will not be able to deliver the securities you have ordered, and the risk that the broker-dealer will not be able to return your money if the broker-dealer goes bankrupt.

There are also risks involved in investing with a broker-dealer that are not mentioned in this document. These risks include the risk that the broker-dealer will not be able to execute your orders, the risk that the broker-dealer will not be able to deliver the securities you have ordered, and the risk that the broker-dealer will not be able to return your money if the broker-dealer goes bankrupt.

- **Read this document carefully before you decide whether to buy or sell securities or to open, maintain, or close a securities account with a broker-dealer.**
- **Read this document carefully before you decide whether to buy or sell securities or to open, maintain, or close a securities account with a broker-dealer.**
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- **Read this document carefully before you decide whether to buy or sell securities or to open, maintain, or close a securities account with a broker-dealer.**

#### What Should I Know Before I Decide Whether to Buy or Sell Securities?

Before you decide whether to buy or sell securities, you should know that there are risks involved in investing with a broker-dealer. These risks include the risk that the broker-dealer will not be able to execute your orders, the risk that the broker-dealer will not be able to deliver the securities you have ordered, and the risk that the broker-dealer will not be able to return your money if the broker-dealer goes bankrupt.

- **Read this document carefully before you decide whether to buy or sell securities or to open, maintain, or close a securities account with a broker-dealer.**
- **Read this document carefully before you decide whether to buy or sell securities or to open, maintain, or close a securities account with a broker-dealer.**

There are also risks involved in investing with a broker-dealer that are not mentioned in this document. These risks include the risk that the broker-dealer will not be able to execute your orders, the risk that the broker-dealer will not be able to deliver the securities you have ordered, and the risk that the broker-dealer will not be able to return your money if the broker-dealer goes bankrupt.

Investment Advisor's Name	Investment Advisor's Address	Investment Advisor's Phone Number	Investment Advisor's Email Address
Investment Advisor's Name	Investment Advisor's Address	Investment Advisor's Phone Number	Investment Advisor's Email Address
Investment Advisor's Name	Investment Advisor's Address	Investment Advisor's Phone Number	Investment Advisor's Email Address
Investment Advisor's Name	Investment Advisor's Address	Investment Advisor's Phone Number	Investment Advisor's Email Address
Investment Advisor's Name	Investment Advisor's Address	Investment Advisor's Phone Number	Investment Advisor's Email Address
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Investment Advisor's Name	Investment Advisor's Address	Investment Advisor's Phone Number	Investment Advisor's Email Address

## **TREC Rule §531.20 - Information About Brokerage Services**

- (a) The Commission adopts by reference the Information About Brokerage Services Notice, TREC No. IABS 1-0 (IABS Notice). The IABS Notice is published by and available from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, [www.trec.texas.gov](http://www.trec.texas.gov).
- (b) Each license holder shall provide:
  - (1) a link to a completed IABS Notice in a readily noticeable place on the homepage of each business website, labeled:
    - (A) “Texas Real Estate Commission Information About Brokerage Services”, in at least 10 point font; or
    - (B) “TREC Information About Brokerage Services”, in at least 12 point font; and
  - (2) the completed IABS Notice at the first substantive communication as required under §1101.558, Texas Occupations Code.
- (c) For purposes of §1101.558, Texas Occupations Code, the completed IABS Notice can be provided:
  - (1) by personal delivery by the license holder;
  - (2) by first class mail or overnight common carrier delivery service;
  - (3) in the body of an email; or
  - (4) as an attachment to an email, or a link within the body of an email, with a specific reference to the IABS Notice in the body of the email.
- (d) The link to a completed IABS Notice may not be in a footnote or signature block in an email.
- (e) For purposes of this section, business website means a website on the internet that:
  - (1) is accessible to the public;
  - (2) contains information about a license holder’s real estate brokerage services; and
  - (3) the content of the website is controlled by the license holder.
- (f) For purposes of providing the link required under subsection (b)(1) on a social media platform, the link may be located on:
  - (1) the account holder profile; or
  - (2) a separate page or website through a direct link from the social media platform or account holder profile.
- (g) License holders may reproduce the IABS Notice published by the Commission, provided that the text of the IABS Notice is copied verbatim and the spacing, borders and placement of text on the page must appear to be identical to that in the published version of the IABS Notice, except that the Broker Contact Information section may be prefilled.

## **Texas Occupations Code §1101.558 - Requirements for Disclosure of Representation Provided by the IABS**

- (a) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1158 , Sec. 92, eff. January 1, 2016.
- (b) A license holder who represents a party in a proposed real estate transaction shall disclose, orally or in writing, that representation at the time of the license holder’s first contact with:
  - (1) another party to the transaction; or
  - (2) another license holder who represents another party to the transaction.
- (b-1) At the time of a license holder’s first substantive communication with a party relating to a proposed transaction regarding specific real property, the license holder shall provide to the party written notice in at least a 10-point font that:
  - (1) describes the ways in which a broker can represent a party to a real estate transaction, including as an intermediary;
  - (2) describes the basic duties and obligations a broker has to a party to a real estate transaction that the broker represents; and
  - (3) provides the name, license number, and contact information for the license holder and the license holder’s supervisor and broker, if applicable.
- (b-2) The commission by rule shall prescribe the text of the notice required under Subsections (b-1)(1) and (2) and establish the methods by which a license holder shall provide the notice.
- (c) A license holder is not required to provide the notice required by Subsection (b-1) if:
  - (1) the proposed transaction is for a residential lease for less than one year and a sale is not being considered;
  - (2) the license holder meets with a party who the license holder knows is represented by another license holder; or
  - (3) the communication occurs at a property that is held open for any prospective buyer or tenant and the communication concerns that property.
- (d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1158 , Sec. 92, eff. January 1, 2016.
- (e) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1158 , Sec. 92, eff. January 1, 2016.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 15, Sec. 7, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1158 (S.B. 699), Sec. 58, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 1158 (S.B. 699), Sec. 92, eff. January 1, 2016.

# Appendix F

## TREC Advertising Rules §535.154 and §535.155

### TREC Rule §535.154 - Registration and Use of Alternate, Team and Assumed Business Names Used in Advertisements

- (a) Definitions. For the purposes of this section:
  - (1) “Advertisement” has the meaning assigned by §535.155.
  - (2) “Alternate name” (commonly known as an alias) means a name used by an individual license holder other than the name shown on the license issued by the Commission, such as a middle name, maiden name, or nickname. It does not include a common derivative of a name, such as Kim for Kimberly or Bill for William, which is considered the same as the name shown on the license.
  - (3) “Associated broker” means a broker who associates with and gets paid through another broker under a relationship that is intended to be a continuous relationship, including but not limited to, an employment or ongoing independent contractor relationship.
  - (4) “Assumed business name” (commonly known as a DBA or trade name) means any name used in business by a broker that meets the requirements of subsection (d), other than the name shown on the broker’s license issued by the Commission, a team name, or an alternate name.
  - (5) “Team name” means a name used by a group of one or more license holders sponsored by or associated with the same broker that performs real estate activities under an exclusive collective name other than the broker’s licensed name or assumed business name.
- (b) Alternate names.
  - (1) Before a license holder starts using an alternate name in an advertisement, the license holder must register the name with the Commission on a form approved by the Commission.
  - (2) The Commission may request supporting documentation evidencing the legal authority to use the alternate name if the last name submitted is different from the last name shown on the license issued by the Commission.
- (3) A license holder must notify the Commission, and their sponsoring broker, not later than the 10th day after the date the license holder stops using an alternate name.
- (c) Team names:
  - (1) A team name may not include any terms that could mislead the public to believe that the team is offering brokerage services independent from its sponsoring broker.
  - (2) A team name must end with the word “team” or “group”.
  - (3) Before an associated broker or a sales agent sponsored by a broker starts using a team name in an advertisement, the broker must register the name with the Commission on a form approved by the Commission.
  - (4) A broker must notify the Commission in writing not later than the 10th day after the date the associated broker or a sales agent sponsored by the broker stops using a team name.
- (d) Assumed business names.
  - (1) Before a broker, associated broker or a sales agent sponsored by a broker starts using an assumed business name of the broker in an advertisement, the broker must:
    - (A) register the name with the Commission on a form approved by the Commission; and
    - (B) provide written evidence of legal authority to use the assumed business name in Texas, such as registration of the name with the Secretary of State or county clerk’s office.
  - (2) A broker must notify the Commission in writing not later than the 10th day after the date the broker stops using an assumed business name.

### TREC Rule §535.155 - Advertisements

- (a) Each advertisement must include the following in a readily noticeable location in the advertisement:
  - (1) the name of the license holder or team placing the advertisement; and
  - (2) the broker’s name in at least half the size of the largest contact information for any sales agent, associated broker, or team name contained in the advertisement.

(b) For the purposes of this section:

- (1) “Advertisement” is any form of communication by or on behalf of a license holder designed to attract the public to use real estate brokerage services and includes, but is not limited to, all publications, brochures, radio or television broadcasts, all electronic media including email, text messages, social media, the Internet, business stationery, business cards, displays, signs and billboards. Advertisement does not include:
  - (A) a communication from a license holder to the license holder’s current client; and
  - (B) a directional sign that may also contain only the broker’s name or logo.
- (2) Associated broker has the meaning assigned by §535.154.
- (3) “Broker’s name” means:
  - (A) the broker’s name as shown on a license issued by the Commission;
  - (B) if an individual, an alternate name registered with the Commission; or
  - (C) any assumed business name that meets the requirements of §535.154.
- (4) “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, scan code or other similar information.
- (5) “Party” means a prospective buyer, seller, landlord, or tenant, or an authorized legal representative of a buyer, seller, landlord, or tenant, including a trustee, guardian, executor, administrator, receiver, or attorney-in-fact. The term does not include a license holder who represents a party.
- (6) “Team name” has the meaning assigned by §535.154.
- (c) For an advertisement on social media or by text, the information required by this section may be located on a separate page or on the account user profile page of the license holder, if the separate page or account user profile is:
  - (1) readily accessible by a direct link from the social media or text; and
  - (2) readily noticeable on the separate page or in the account user profile.
- (d) For purposes of this section and §1101.652(b)(23) of the Act, 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 §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.



# Appendix G

## Succession Planning

### What happens to your license when your broker dies?

03-29-2021 by: TREC Staff



If there is one thing the COVID-19 pandemic has taught us is to expect the unexpected and that planning is essential for you and your business. While succession planning in the event of a broker's death is largely outside of TREC's jurisdiction and is primarily a private business decision, it may be helpful to keep a few things in mind.

Regardless of how, if you suddenly find yourself without a broker, your license will become inactive and you will be unable to perform real estate services that require a license. To resume your work, you need to find a new broker immediately. TREC has the easy and free "Relationship Management Tool" available through the agency's online services. This tool allows you to confirm a new sponsoring broker at any time with no wait. Without an active sponsoring broker, your license will remain inactive, so taking action quickly will help you and your business.

If the designated broker of a licensed business entity dies, the entity and all agents sponsored by that entity can no longer perform real estate brokerage services until a new designated broker is established with TREC. First, the entity must submit the Change of Designated Broker form. Once TREC approves the change of designated broker and the business entity receives an active license reflecting the change, the entity can manage sales agent sponsorship through the agency's online services. Remember, all agents sponsored by the entity will need to confirm sponsorship by the entity before they are returned to active status with TREC.

For additional resources on succession planning, see the following:

- \* Pointers related to succession planning in the 2021 Broker Responsibility Course
- \* The Texas Real Estate Research Center article "Who's on Deck" written by former TREC General Counsel Kerri Lewis
- \* Texas REALTORS has also published an article on "Real Estate Brokerage Succession Planning"



# Appendix H

## Helpful Links

TREC website

[www.trec.texas.gov](http://www.trec.texas.gov)

TREC Rules (Secretary of State's Website)

[https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=3&ti=22&pt=23](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=3&ti=22&pt=23)

Texas Occupations Code Chapter 1101

<https://statutes.capitol.texas.gov/Docs/OC/htm/OC.1101.htm>

TREC Advisor (News & Articles)

<https://www.trec.texas.gov/news-articles>

TREC FAQ's

<https://www.trec.texas.gov/public/frequently-asked-questions>

TREC Commission & Committee Meeting Schedules

<https://www.trec.texas.gov/apps/meetings>

TREC Disciplinary Actions

<https://www.trec.texas.gov/apps/disciplinary-actions>

Consumer Protection Notice Form

<https://www.trec.texas.gov/forms/consumer-protection-notice>

Information About Brokerage Services Form

<https://www.trec.texas.gov/forms/information-about-brokerage-services>

Landlords and Tenants Guide from Texas A&M Real Estate Center

<https://assets.recenter.tamu.edu/documents/articles/866.pdf>