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United States • Texas Real Estate Sales Agent License Exam

Texas

Study Guide

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CHAPTER 1

Subch. A–D: Definitions, real estate brokerage, applicability, TREC membership, powers and duties, fees, contract forms (1101.001–1101.161)

1.1 Definition of Broker

A 'broker' is a person who, in exchange for or with the expectation of a commission or other valuable consideration, performs for another person acts involving real estate. These acts include selling, exchanging, purchasing, or leasing real estate; offering to do so; negotiating listings/sales/leases; listing real estate; auctioning real estate; dealing in options; aiding in locating/obtaining real estate; procuring prospects or property; controlling acceptance/deposit of rent from a single-family residential unit; providing a written price analysis (BPO) not called an appraisal; or advising an owner on a short sale. A broker also includes a person employed by an owner to sell real estate or one who charges an advance fee to promote sale by listing or referring information.

- ✓ Broker status requires acting for ANOTHER person for compensation or expectation of it
- ✓ A written analysis of estimated price (BPO) is broker activity only if it is not called an appraisal, is done in the ordinary course of business, and relates to management/acquisition/disposition/encumbrance
- ✓ Advising an owner on a short sale is a brokerage activity
- ✓ Controlling acceptance or deposit of rent from a single-family residential unit is brokerage

1.2 Sales Agent and License Holder Definitions

A 'sales agent' is a person sponsored by a licensed broker for the purpose of performing an act described in the broker definition (Subdivision 1). A 'license holder' means a broker or sales agent licensed under Chapter 1101. A sales agent cannot act independently — they must be sponsored by a broker.

- ✓ A sales agent must be sponsored by a licensed broker
- ✓ 'License holder' means a broker OR a sales agent licensed under the chapter
- ✓ A sales agent performs the same acts as a broker but only under broker sponsorship

1.3 Applicability Exemptions from Chapter 1101

TRELA does not apply to certain persons/transactions: an attorney licensed in Texas; an attorney-in-fact under a power of attorney conducting not more than three transactions annually; a public official in official duties; a licensed auctioneer conducting an auction (if not performing other broker acts); a person acting under court order, will, or written trust; an owner's employee selling structures the owner erects in the owner's business; an on-site apartment manager; an owner or owner's employee leasing the owner's real estate; and certain transactions involving minerals/mining/timber/energy sources, cemetery lots, hotel/motel lease or management, or foreclosure sales. Sales, leases, or transfers by general partners/managers/managing members and their employees of limited partnerships or LLCs are also exempt.

- ✓ A Texas-licensed attorney is exempt from TRELA
- ✓ An attorney-in-fact may conduct not more than three real estate transactions annually while exempt
- ✓ An owner or owner's employee leasing/selling the owner's own property is exempt
- ✓ On-site apartment managers and mineral/timber/energy, cemetery lot, and hotel/motel lease transactions are exempt

1.4 Rules Relating to Contract Forms

TREC may adopt rules requiring license holders to use contract forms prepared by the Texas Real Estate Broker-Lawyer Committee and adopted by the commission. However, TREC may NOT prohibit a license holder from using a contract form prepared by the property owner, or prepared by an attorney and required by the property owner. A commission-adopted listing contract form must include a provision informing parties that real estate commissions are negotiable, and a provision explaining availability of Texas coastal natural hazards information where appropriate.

- ✓ License holders may be required to use TREC-adopted forms prepared by the Broker-Lawyer Committee
- ✓ TREC cannot prohibit use of forms prepared by the owner, or by an attorney and required by the owner
- ✓ Listing forms must state that real estate commissions are negotiable

1.5 Short Title and TRELA

Chapter 1101 of the Texas Occupations Code is officially known as The Real Estate License Act (TRELA). It governs real estate brokers and sales agents in Texas and is administered by the Texas Real Estate Commission (TREC).

- ✓ Chapter 1101 may be cited as The Real Estate License Act
- ✓ TRELA governs brokers and sales agents in Texas

1.6 Key Statutory Definitions

'Commission' means the Texas Real Estate Commission (TREC). 'Real estate' means any interest in real property, including a leasehold, located in or outside Texas, but does NOT include an interest given as security for an obligation (e.g., a mortgage lien). 'Residential rental locator' means a person who offers for consideration to locate an apartment unit for lease to a prospective tenant (excludes an owner locating a unit in the owner's own complex). A 'business entity' means a domestic or foreign entity qualified to transact business in Texas.

- ✓ 'Real estate' includes leaseholds but excludes security interests given for an obligation
- ✓ A residential rental locator must be licensed but an owner locating a unit in the owner's own complex is excluded
- ✓ 'Commission' always refers to the Texas Real Estate Commission (TREC)

1.7 Real Estate Brokerage Defined and Exclusions

A person is engaged in real estate brokerage if, with expectation of valuable consideration, they directly or indirectly perform or offer to perform for another any act in the broker definition, as part of or the entirety of a transaction. A person is NOT engaged in brokerage (regardless of licensure) based solely on: (1) constructing, remodeling, or repairing a building; (2) sponsoring/promoting/managing or participating as principal, partner, or financial manager in a real estate investment; or (3) entering into an obligation to pay another secured by an interest in real property.

- ✓ Brokerage requires acting for another with expectation of valuable consideration
- ✓ Construction/remodeling/repair is not brokerage
- ✓ Participating as a principal or partner in a real estate investment is not brokerage

1.8 Equitable Interests in Real Property

A person may acquire an option or interest in a contract to purchase real property and then sell/assign it (or offer to) WITHOUT a license IF the person: (1) does not use the option/contract to engage in real estate brokerage; AND (2) discloses in writing the nature of the equitable interest to any seller or potential buyer. Failing to disclose the nature of that equitable interest constitutes engaging in real estate brokerage (requiring a license).

- ✓ Selling/assigning an option or equitable contract interest without written disclosure of that interest's nature IS brokerage requiring a license
- ✓ Written disclosure of the equitable interest to seller and potential buyer is required to remain exempt
- ✓ The person may not use the option or contract to engage in brokerage

1.9 General Powers and Duties of TREC

TREC shall administer Chapters 1101 and 1102, adopt rules and standards for permissible advertising by residential rental locators, maintain a registry of certificate holders, and design/adopt a seal. TREC may adopt and enforce rules necessary to administer the chapters and establish standards of conduct and ethics for license holders to fulfill the chapters' purposes and ensure compliance. TREC's detailed rules are found in 22 Texas Administrative Code (TAC) Chapter 535.

- ✓ TREC adopts and enforces rules necessary to administer TRELA (Chapter 1101) and Chapter 1102
- ✓ TREC establishes standards of conduct and ethics for license holders
- ✓ TREC's administrative rules appear in 22 TAC Chapter 535

1.10 Rules Restricting Advertising or Competitive Bidding

TREC may not adopt rules restricting advertising or competitive bidding except to prohibit false, misleading, or deceptive practices. Even when prohibiting deceptive practices, TREC may not adopt a rule that restricts any advertising medium, restricts personal appearance or voice use, relates to ad size/duration, restricts advertising under a registered assumed/trade name, or requires terms like 'broker'/'agent,' a TREC reference, or the license number in the ad. Note TREC rules (22 TAC 535.155) do require certain advertising disclosures consistent with these limits.

- ✓ TREC may restrict advertising only to prohibit false, misleading, or deceptive practices
- ✓ TREC cannot restrict the advertising medium, ad size/duration, or use of a registered trade name
- ✓ Advertising rules must still be reviewed under TREC's 22 TAC Chapter 535 provisions

1.11 Easement or Right-of-Way Agent

An 'easement or right-of-way agent' is a person who sells, buys, leases, or transfers an easement or right-of-way for another, for compensation or with the expectation of compensation, for use in connection with telecommunication, utility, railroad, or pipeline service. These agents register with TREC rather than holding a standard license.

- ✓ Easement/right-of-way agents deal with telecommunication, utility, railroad, or pipeline easements
- ✓ They register with TREC and pay a registration fee

1.12 TREC Commission Membership

The Texas Real Estate Commission consists of nine members appointed by the governor with senate advice and consent: six members who have been licensed brokers as their major occupation for the five years preceding appointment, and three public members. Each member must be a qualified voter. Members serve staggered six-year terms, with three members' terms expiring January 31 of each odd-numbered year. The governor fills vacancies for unexpired terms and designates a licensed broker member as presiding officer.

- ✓ TREC has nine members: six licensed brokers and three public members
- ✓ Members serve staggered six-year terms
- ✓ The six broker members must have been licensed brokers as their major occupation for the five years preceding appointment

1.13 TREC Fees and Recovery Trust Account

TREC adopts rules to charge fees reasonable and necessary to cover administering the chapter and the real estate recovery trust account, including fees for: original/renewal broker and sales agent licenses, easement/right-of-way registration, license exams, changes (place of business, name, active status, sponsoring broker), replacing lost licenses, education program approval/operation, transcript evaluation, license/registration history, fitness determinations, criminal history checks, and business entity registration. TREC also sets fees for continuing education provider and course approval.

- ✓ TREC fees must be reasonable and necessary to cover administrative and recovery trust account costs
- ✓ Fees are charged for original applications, renewals, exams, and changes to license status
- ✓ A fee may be charged for filing a request for determination of fitness and for criminal history checks

1.14 Additional Fee for Real Estate Research Center

Each license issuance/renewal carries an additional fee funding the Texas Real Estate Research Center at Texas A&M University: $70 per year for a broker license, $20 per year for a sales agent license, and $20 per year for a certificate of registration. TREC transmits these fees at least quarterly to Texas A&M for the Center's use.

- ✓ Broker license carries an additional $70 per year Research Center fee
- ✓ Sales agent license carries an additional $20 per year Research Center fee
- ✓ Research Center fees fund the Texas Real Estate Research Center at Texas A&M University

1.15 TREC Subpoena Authority

TREC may request and, if necessary, compel by subpoena the attendance of witnesses for examination under oath and the production of records, documents, and other evidence relevant to investigating an alleged violation of the chapter. A subpoena may be issued statewide. If a person fails to comply, TREC, acting through the attorney general, may file suit in a district court in Travis County or the county of hearing. The court orders compliance if good cause exists.

- ✓ TREC may subpoena witnesses and records relevant to alleged violations
- ✓ Subpoenas may be enforced through the attorney general in Travis County or the hearing county district court

CHAPTER 2

Subch. E–G: Complaints, Broker-Lawyer Committee, approval of educational programs

2.1 Complaint Investigation Requirements and Limits

TREC or its staff may file a complaint and investigate to enforce Chapter 1101, 1102, or related rules. TREC must investigate a license holder's actions/records when a person submits a signed, written complaint and the evidence provides reasonable cause. TREC cannot investigate a complaint submitted after the fourth anniversary of the incident. An investigation cannot be started based on an anonymous complaint. TREC must give written notice to a license holder under investigation unless it deliberately decides against notice.

- ✓ TREC must investigate when there is a signed, written complaint plus reasonable cause
- ✓ No investigation may be conducted on a complaint submitted more than 4 years after the incident
- ✓ No investigation or action may be initiated based on an anonymous complaint
- ✓ Undercover/covert investigations require express commission authorization

2.2 Texas Real Estate Broker-Lawyer Committee

The Broker-Lawyer Committee has 13 members: six appointed by TREC, six State Bar of Texas members appointed by the state bar president, and one public member appointed by the governor. Members serve staggered six-year terms (two commission and two bar appointees expire every two years; the public member every six years). The committee's key duty is to draft and revise standardized contract forms that expedite transactions, minimize controversy, and contain safeguards adequate to protect the principals.

- ✓ Committee consists of 13 members: 6 TREC, 6 State Bar, 1 public member
- ✓ Members serve staggered six-year terms
- ✓ Committee drafts and revises standardized contract forms with safeguards to protect principals

2.3 Complaint Notice and Consumer Information Requirements

TREC must adopt rules prescribing a notice with the commission's name, mailing address, and telephone number so consumers know how to direct complaints. License holders regulated under Chapter 1101 or 1102 must provide this notice to consumers and service recipients. When a complaint is filed, TREC must give both the complainant and the license holder an explanation of available remedies and information about other appropriate state/local agencies.

- ✓ TREC by rule prescribes a complaint notice containing its name, mailing address, and telephone number
- ✓ License holders must provide the complaint notice to consumers and service recipients
- ✓ TREC must give complainant and license holder an explanation of remedies and info on other agencies where a complaint may be filed

2.4 Complaint File and Status Notification

TREC maintains a system to promptly act on complaints and keeps a file on each complaint. The file must contain party information, subject matter, a summary of investigation results, and the disposition. TREC must make its complaint procedures publicly available and periodically notify parties of the complaint status until final disposition, unless doing so would jeopardize an authorized undercover investigation.

- ✓ Each complaint file must include parties, subject matter, summary of results, and disposition
- ✓ TREC must periodically notify parties of complaint status until final disposition
- ✓ Status notice may be withheld if it would jeopardize an authorized undercover investigation

2.5 Risk-Based Complaint Prioritization

TREC must give priority to complaints filed by consumers and resulting enforcement cases. Complaints are assigned priority and investigated using a risk-based approach considering degree and immediacy of potential harm, severity of allegations, number of license holders involved, prior complaint history, and number of potential violations. If an allegation or complaint is inappropriate or without merit, TREC must dismiss it with no further action; staff may be delegated dismissal authority.

- ✓ Consumer complaints and resulting enforcement cases receive priority
- ✓ Risk-based prioritization factors include degree/immediacy of harm, severity, number of license holders, complaint history, and number of potential violations
- ✓ Inappropriate or meritless complaints must be dismissed; staff may be delegated dismissal duty

2.6 Confidentiality of Investigation Material

Information or material (including an investigation file) prepared or compiled by TREC in connection with a complaint, investigation, or audit is confidential and not subject to disclosure under the Public Information Act (Gov. Code Ch. 552) or by discovery/subpoena. Exceptions allow disclosure to the respondent, an audit subject, service providers/experts/witnesses/investigators, other licensing jurisdictions, law enforcement, and SOAH. TREC must protect a complainant's identity by excluding identifying information from the complaint notice sent to a respondent. Upon dismissal or final resolution, the materials (including completed audit reports and final orders) become subject to disclosure.

- ✓ Investigation files are confidential and not subject to Public Information Act disclosure, discovery, or subpoena
- ✓ Disclosure is permitted to specified parties (respondent, law enforcement, SOAH, other jurisdictions, etc.)
- ✓ TREC must protect the complainant's identity in the notice sent to the respondent
- ✓ After dismissal or final resolution, materials become subject to disclosure under Gov. Code Ch. 321 or 552

2.7 Approval of Real Estate Educational Programs

TREC may by rule set standards for approving qualifying education programs/courses in real estate and inspection (excluding public high schools and accredited colleges/universities) and set minimum instructor education/experience requirements. TREC must set an examination passage-rate benchmark for each license category, based on the average first-attempt pass rate; a program must meet or exceed the benchmark to renew approval, but may be renewed on a probationary basis if it can meet the benchmark within a reasonable time. TREC may deny approval if the applicant owned/controlled a program whose approval was revoked, or is in violation of a commission order.

- ✓ TREC sets standards and minimum instructor requirements for approved education programs
- ✓ Public high schools and accredited colleges/universities are excluded from the approval requirement
- ✓ An exam passage-rate benchmark (based on first-attempt average) must be met to renew program approval
- ✓ Approval may be denied if applicant previously controlled a revoked program or violated a commission order

2.8 Education Provider Fees and Bond Requirement

TREC generally may not charge more than one approval fee when a program is offered in multiple formats (in person, online, correspondence), unless it has adopted a rule policy allowing separate per-format fees. An educational institution (excluding accredited colleges/universities) must maintain a $20,000 corporate surety bond or acceptable security, payable to TREC, for the benefit of parties damaged by the institution's failure to fulfill its obligations.

- ✓ TREC may charge only one approval fee for a program offered in multiple formats absent a multi-format fee rule
- ✓ Educational institutions must maintain a $20,000 corporate surety bond payable to TREC
- ✓ The bond benefits parties harmed by the institution's failure to fulfill obligations

2.9 Continuing Education Provider and Course Approval

If an applicant satisfies the requirements, TREC may approve a continuing education provider or CE course of study for a two-year period. TREC may set minimum instructor education/experience requirements, and applicants must ensure course instructors meet them. TREC may deny renewal of a CE approval if the applicant is in violation of a commission order. TREC must adopt rules on collecting and publishing examination passage-rate data for graduates of approved programs.

- ✓ Approved CE providers and courses are authorized for a two-year period
- ✓ CE course instructors must meet TREC's minimum education and experience requirements
- ✓ TREC must adopt rules for collecting and publishing exam passage-rate data for approved programs

2.10 Public Participation Policies

TREC must develop and implement policies giving the public a reasonable opportunity to appear and speak on any agenda item at a regular commission meeting. It must also maintain a written plan describing how persons who do not speak English or have a physical, mental, or developmental disability can access TREC programs.

- ✓ TREC must allow the public to speak on any agenda item at regular meetings
- ✓ TREC must maintain a written plan for access by non-English speakers and persons with disabilities

CHAPTER 3

Subch. H–J: License requirements, examinations, renewal and continuing education (1101.351–1101.459)

3.1 License Required to Act as Broker or Sales Agent

A person may not act as or represent themselves as a broker or sales agent, or act as a residential rental locator, unless they hold a license under Chapter 1101. Business entities must be licensed to act as brokers. Applicants may not act until the license is actually issued. A sales agent may not engage in real estate brokerage unless sponsored by a licensed broker and acting for that broker.

- ✓ A person may not act as a broker, sales agent, or residential rental locator without a license
- ✓ A business entity may not act as a broker without a license
- ✓ An applicant may not act as broker/sales agent until the license evidencing authority is received
- ✓ A sales agent may not engage in brokerage unless sponsored by a licensed broker and acting for that broker

3.2 Fingerprint and Criminal History Requirement

Applicants for a license or renewal of an unexpired license must submit a complete, legible set of fingerprints to obtain criminal history record information from DPS and the FBI. The commission must refuse to issue or renew a license on active status for anyone who does not comply. The commission conducts a criminal history check on each applicant using submitted and agency information.

- ✓ Applicants for license or renewal must submit fingerprints for a DPS/FBI criminal history check
- ✓ The commission must refuse to issue or renew an active license if the applicant does not comply
- ✓ Renewal of an unexpired license also requires compliance with the criminal history check (Sec. 1101.4521)

3.3 General Eligibility Requirements for a License

To be eligible for a license, a person must, at time of application, be at least 18 years old and be a U.S. citizen or lawfully admitted alien; satisfy the commission as to honesty, trustworthiness, and integrity; demonstrate competence via examination under Subchapter I; and complete the required courses of study including qualifying real estate courses.

- ✓ Applicant must be at least 18 and a U.S. citizen or lawfully admitted alien
- ✓ Applicant must satisfy the commission as to honesty, trustworthiness, and integrity
- ✓ Applicant must pass the required examination and complete required qualifying courses

3.4 Broker License Experience and Education

A broker applicant must show at least four years of active experience as a license holder during the 60 months preceding the application, complete the qualifying real estate/related course hours required by rule (not to exceed 60 semester hours), and attend the broker responsibility course. These requirements do not apply to an applicant already licensed as a broker in another state with comparable requirements.

- ✓ Broker applicants need at least 4 years of active experience in the 60 months before applying
- ✓ Broker applicants must complete required qualifying courses (up to 60 semester hours) and the broker responsibility course
- ✓ Requirements are waived for brokers licensed in another comparable state

3.5 Sales Agent License Education Requirements

A sales agent applicant must provide evidence of completing at least 12 semester hours (or equivalent classroom hours) of qualifying real estate courses required by commission rule. Education is waived if the applicant was licensed as a broker or sales agent in Texas within the six months preceding the application.

- ✓ Sales agent applicants must complete at least 12 semester hours of qualifying real estate courses
- ✓ Education requirements are waived if licensed in Texas as a broker/sales agent within the prior 6 months

3.6 Inactive Status for Sales Agents

When a sales agent's relationship with a sponsoring broker terminates, the terminating party must immediately notify the other party and the commission in writing, and the commission places the license on inactive status. A broker may return the agent to active status before license expiration by filing a request and fee assuming sponsorship. Returning to active status requires proof of continuing education from the prior two years (unless subject to first-renewal education under 1101.454).

- ✓ The terminating party must immediately notify both the other party and the commission in writing
- ✓ The commission places the sales agent license on inactive status upon receiving notice
- ✓ A broker may reactivate the agent by filing a request assuming sponsorship with the fee before expiration

3.7 Examination Requirement and Time Limit

Competency is established by an examination prepared or contracted for by the commission, offered at times/places it determines. The exam must be broad enough to determine competence to protect the public, and the sales agent exam must be less exacting than the broker exam. The commission provides study materials. An applicant must satisfy the exam requirement within one year after filing the license application.

- ✓ Competency is established by an examination prepared or contracted by the commission
- ✓ The sales agent exam must be less exacting than the broker exam
- ✓ An applicant must pass the exam within one year of filing the application

3.8 License Expiration, Renewal, and Late Renewal

The commission may issue or renew a license for a 24-month period. A license expired 90 days or less may be renewed by paying 1-1/2 times the renewal fee; expired more than 90 days but less than six months requires two times the fee. If a license has been expired for six months or longer, it cannot be renewed and the person must obtain a new license by meeting original licensing requirements.

- ✓ Licenses may be issued/renewed for up to 24 months
- ✓ Expired 90 days or less: renew at 1-1/2 times the fee; 91 days to under 6 months: 2 times the fee
- ✓ Expired 6 months or longer: cannot renew — must apply as a new applicant

3.9 First Renewal Education for Sales Agents (SAE)

An applicant for the first renewal of a sales agent license must show completion of at least 18 semester hours (or equivalent classroom hours) of qualifying real estate courses, including the hours required by Sec. 1101.455(e). The commission may not waive this renewal requirement.

- ✓ First sales agent renewal requires at least 18 semester hours of qualifying real estate courses
- ✓ The commission may not waive the first-renewal education requirement

3.10 Continuing Education Requirements

License holders not subject to first-renewal education must complete continuing education (at least 15 classroom hours, set by rule) during the current license term. At least eight hours must cover required legal topics (commission rules, fair housing, Property Code/landlord-tenant, agency law, antitrust, DTPA (Subch. E, Ch. 17 Bus. & Comm. Code), disclosures, promulgated contract forms, unauthorized practice of law, case studies, FHA/VA regulations, tax laws, and ethics). Qualifying courses and State Bar-approved CLE courses are automatically approved for the remaining hours. A legislator licensed under the chapter needs only three hours on the legal topics.

- ✓ CE must be at least 15 classroom hours during the current license term
- ✓ At least 8 CE hours must cover specified legal topics including agency, fair housing, disclosures, and ethics
- ✓ The commission may not increase required classroom hours by more than 3 over a license term

3.11 License Application and Felony Disclosure

Each applicant for a broker or sales agent license must apply on a commission-prescribed form and disclose any guilty/nolo contendere plea to a felony or felony conviction (once appeal time has elapsed or conviction affirmed). Disclosure is required even if community supervision suspended imposition of the sentence. Applicants must provide current mailing address, telephone number, and business e-mail (if available), and notify the commission of changes while the application is pending.

- ✓ Application must be on a form prescribed by the commission
- ✓ Applicant must disclose felony pleas or convictions
- ✓ Felony disclosure required even if community supervision was granted
- ✓ Applicant must provide current contact info and update changes while application pending

3.12 Business Entity Eligibility Requirements

To be eligible for a broker license, a business entity must designate a managing officer as its broker and, if the designated broker owns less than 10% of the entity, provide proof of errors and omissions insurance with a minimum annual limit of $1 million per occurrence. The entity may not act as a broker unless its designated broker is a licensed individual broker in active status and good standing. Good standing may consider disciplinary history and amounts owed to the commission.

- ✓ A business entity broker must designate a managing officer as its broker
- ✓ E&O insurance of at least $1 million per occurrence is required if the designated broker owns less than 10% of the entity
- ✓ The designated broker must be a licensed individual broker in active status and good standing

3.13 Issuance and Denial of License

The commission must issue an appropriate license to a qualifying applicant and may issue an inactive sales agent license to one who meets all requirements but is not yet sponsored. A license remains in effect if the holder complies with the chapter and pays renewal fees. On denial, the commission must immediately give written notice, and the applicant is entitled to a hearing under Sec. 1101.657.

- ✓ The commission may issue an inactive sales agent license; the person may not act until sponsored by a broker who notifies the commission
- ✓ On denial, the commission must give immediate written notice and the applicant may request a hearing

3.14 Inactive Status for Brokers

A broker may go inactive if not acting as a broker, not sponsoring a sales agent, and submitting written application before expiration (or within 6 months after expiration on a prescribed form). A broker applying for inactive status must terminate sponsorship of each sales agent by written notice before the 30th day preceding the application. Inactive brokers may not perform regulated activities but must pay renewal fees; returning to active status requires application, fee, and proof of continuing education.

- ✓ A broker may be placed inactive only if not acting as a broker and not sponsoring a sales agent
- ✓ An inactive broker must pay renewal fees but may not perform regulated activities
- ✓ Returning to active status requires proof of continuing education from the prior two years

3.15 Waiver of Examination

The commission must waive the exam for a broker or sales agent applicant who was previously licensed in Texas as a broker or sales agent, if the application is filed before the second anniversary of the equivalent license's expiration date.

- ✓ Exam is waived for previously Texas-licensed applicants
- ✓ The application must be filed within 2 years of the equivalent license's expiration

3.16 Examination Results and Reexamination

The commission or testing service must notify each examinee of results within 10 days of the exam (or of the reason for delay before the 10th day). A person who fails may request a written analysis of their performance; results are confidential. A failing applicant may reapply with the proper fee, but after failing three consecutive times may not reapply without completing additional prescribed education.

- ✓ Examinees must be notified of results within 10 days
- ✓ Exam results are confidential
- ✓ After three consecutive failures, an applicant must complete additional education before reexamination

3.17 Renewal Disclosure and Business Entity Renewal

Renewal applicants must disclose felony pleas or convictions (even if community supervision granted) and comply with criminal history record check requirements. To renew, a business entity must designate a managing officer as broker and, if the designated broker owns less than 10%, maintain $1 million E&O insurance; it may not act as a broker unless the designated broker is licensed, in active status, and in good standing.

- ✓ Renewal applicants must disclose felony pleas/convictions and complete the criminal history check
- ✓ Business entity renewal requires a designated managing officer broker and $1 million E&O if the broker owns under 10%

3.18 Determination of Fitness Before Applying

Before applying, a person may request (and pay a fee) for the commission to determine whether they possess the fitness to engage in the profession. The commission must notify the person of its determination within 30 days. It may conduct a supplemental determination after application and may issue a provisional determination of fitness under rules it adopts.

- ✓ A person may request a fitness determination before applying, upon paying the required fee
- ✓ The commission must notify the person of the determination within 30 days
- ✓ The commission may issue a provisional determination of fitness

3.19 Registration Exemption for Certain Owned Entities

A business entity that only receives compensation earned by a broker or sales agent it is affiliated with does not need a broker license if it: performs no other broker acts; is an LLC or S corporation; is registered with the commission; and is at least 51% owned by the license holder on whose behalf it receives compensation.

- ✓ An entity receiving only pass-through compensation need not be licensed if it performs no other broker acts
- ✓ It must be an LLC or S corporation, registered with the commission, and at least 51% owned by the license holder

3.20 Nonresident Applicant Requirements

A nonresident applicant is subject to the same license requirements as a resident, and the commission may refuse a license for the same reasons. The nonresident must submit an irrevocable consent to legal action in any Texas county where a cause of action may arise or the plaintiff resides, allowing service of process through the commission's executive director.

- ✓ Nonresident applicants must meet the same requirements as residents
- ✓ Nonresidents must file an irrevocable consent to legal action/service of process in Texas

3.21 Probationary License

The commission may issue a probationary license and must adopt reasonable rules governing the terms for issuing one.

- ✓ The commission may issue a probationary license
- ✓ The commission adopts rules setting reasonable terms for probationary licenses

3.22 Continuing Education Exemptions and Deferral

A broker who qualified before October 31, 1991 for the former continuing education exemption is not required to complete mandatory CE to renew. The commission may also, by rule, allow a license to be issued, renewed, or reactivated before CE is completed, potentially charging an additional fee (not over $200) and requiring completion of CE within 60 days.

- ✓ Certain brokers who qualified before Oct. 31, 1991 are exempt from mandatory CE
- ✓ CE may be deferred by rule with an added fee (up to $200) and completion within 60 days

CHAPTER 4

Subch. K: Residential rental locator certificate

4.1 Additional Education: Broker Responsibility Course

During the term of a current license, a broker responsibility course approved by TREC must be attended by any broker licensed under Chapter 1101 and any sales agent who supervises another license holder. TREC prescribes the course title, content, and duration by rule, and the course may not exceed six classroom hours. These hours count toward the continuing education (CE) hours required under Section 1101.455(f). This requirement does not apply to a broker exempt from CE under Section 1101.456.

- ✓ Brokers and sales agents who supervise another license holder must take the broker responsibility course during the current license term
- ✓ The broker responsibility course may not exceed six classroom hours
- ✓ Broker responsibility hours may be used to satisfy required CE hours under 1101.455(f)
- ✓ Does not apply to a broker exempt from CE under Section 1101.456

4.2 Denial of License Renewal for Order Violation

TREC may deny renewal of a license under Chapter 1101 if the applicant is in violation of a commission order. A denial of a license renewal receives the same procedural protections that apply to the denial of an original license under Section 1101.364 (including hearing/appeal rights).

- ✓ TREC may deny license renewal if the applicant is in violation of a commission order
- ✓ Renewal denial is subject to the same provisions as denial of a license under Section 1101.364

4.3 Certificate Required for Easement/Right-of-Way Agent

A person may not act as an easement or right-of-way agent unless the person either holds a license issued under Chapter 1101 or holds a certificate of registration issued under this subchapter. This is the certificate-of-registration alternative to full licensure for easement/right-of-way work.

- ✓ A person may not act as an easement or right-of-way agent without a license OR a certificate of registration
- ✓ Either a Chapter 1101 license or a certificate of registration satisfies the requirement

4.4 Eligibility Requirements for Certificate of Registration

To receive a certificate of registration or renewal, an individual applicant must, at the time of application, be at least 18 years of age and be a U.S. citizen or lawfully admitted alien, and must successfully complete the required courses of study (qualifying or continuing education) prescribed by this subchapter. A business entity applicant must designate as its agent one of its managing officers who is registered under this subchapter.

- ✓ Applicant must be at least 18 years of age at time of application
- ✓ Applicant must be a U.S. citizen or lawfully admitted alien
- ✓ Applicant must complete required qualifying or continuing education courses
- ✓ A business entity must designate a registered managing officer as its agent

4.5 Criminal History Check for Certificate

An applicant for an original or renewal certificate of registration as an easement or right-of-way agent must comply with the criminal history record check requirements of Section 1101.3521.

- ✓ Both original and renewal certificate applicants must undergo a criminal history record check
- ✓ The check must comply with Section 1101.3521 requirements

4.6 Qualifying Education for Certificate Applicants

TREC by rule approves the coursework an applicant must complete for issuance or renewal of a certificate of registration. An applicant for an original certificate must submit evidence of completing at least 16 classroom hours of TREC-approved coursework covering: the law of eminent domain (including property owners' rights), appropriate standards of professionalism in contacting and negotiating with property owners, and ethical considerations in performing right-of-way acquisition services.

- ✓ Original certificate applicants must complete at least 16 classroom hours of approved coursework
- ✓ Coursework must cover eminent domain law, professionalism in owner negotiations, and ethics in right-of-way acquisition
- ✓ TREC approves the required coursework by rule

4.7 Issuance and Expiration of Certificate

TREC shall issue a certificate of registration to an applicant who meets the requirements. The certificate remains in effect for the period prescribed by TREC as long as the holder complies with the chapter and pays renewal fees. The duration, expiration, and renewal of a certificate are subject to the same provisions as those applicable to a license under Section 1101.451.

- ✓ TREC must issue a certificate to a qualifying applicant
- ✓ Certificate remains in effect only if the holder complies with the chapter and pays renewal fees
- ✓ Certificate duration, expiration, and renewal follow the same rules as a license under Section 1101.451

4.8 Denial of Certificate Issuance or Renewal

Denial of an original certificate of registration or of a renewal is subject to the same provisions applicable under Section 1101.364 to the denial of a license. TREC may also deny renewal of a certificate if the applicant is in violation of a commission order.

- ✓ Certificate denial follows the same provisions as license denial under Section 1101.364
- ✓ TREC may deny certificate renewal if the applicant is in violation of a commission order

4.9 Change of Address and Display of Certificate

Not later than the 10th day after moving its place of business from a previously designated address, a certificate holder must notify TREC of the move and obtain a new certificate reflecting the new address. A certificate holder must also prominently display the certificate of registration at all times in the holder's place of business.

- ✓ Notify TREC and obtain a new certificate within 10 days of moving the place of business
- ✓ Prominently display the certificate of registration at all times in the place of business

CHAPTER 5

Subch. L: Practice by license holder – office, notices to buyer, representation disclosure, intermediary, written agreements (1101.551–1101.563)

5.1 Intermediary and Party Definitions

Subchapter L defines key terms. An 'intermediary' is a broker employed to negotiate a transaction between the parties and who may act as an agent of the parties for that purpose. A 'party' is a prospective buyer, seller, landlord, or tenant, or an authorized representative such as a trustee, guardian, executor, administrator, receiver, or attorney-in-fact. Importantly, the term 'party' does NOT include a license holder who represents a party.

- ✓ An intermediary is a broker employed to negotiate a transaction between parties and may act as agent of the parties
- ✓ A 'party' includes authorized representatives (trustee, guardian, executor, administrator, receiver, attorney-in-fact) but excludes a license holder who represents a party

5.2 Notice to Buyer Regarding Abstract or Title Policy

When an offer to purchase Texas real estate is signed, a license holder must advise each buyer in writing that the buyer should either (1) have the abstract covering the real estate examined by an attorney chosen by the buyer, or (2) be provided with or obtain a title insurance policy. This is a mandatory written disclosure at the time an offer is signed.

- ✓ When an offer to purchase is signed, the license holder must advise each buyer IN WRITING
- ✓ The advice must state the buyer should have the abstract examined by an attorney OR obtain a title insurance policy

5.3 Disclosure of Occupant Information (AIDS/Death)

Notwithstanding other law, a license holder is NOT required to inquire about, disclose, or release information about whether a previous or current occupant had, has, or may have AIDS, an HIV-related illness, or HIV infection (as defined by the CDC), or whether a death occurred on the property by natural causes, suicide, or accident unrelated to the property's condition.

- ✓ A license holder need not disclose whether an occupant had/has AIDS, HIV-related illness, or HIV infection
- ✓ A license holder need not disclose a death on the property by natural causes, suicide, or accident unrelated to the property's condition

5.4 Broker as Agent; Duties to Represented Party

A broker who represents a party or lists real estate under an exclusive agreement is that party's agent. Such a broker may not instruct another broker to violate Section 1101.652(b)(22), must inform the party of material information (including receipt of an offer), and must at minimum answer the party's questions and present any offer to or from the party. A license holder with authority to bind a party under a power of attorney or property management agreement is also a party to the lease or sale.

- ✓ A broker representing a party or listing under an exclusive agreement is that party's agent
- ✓ The broker must inform the party of material information, including receipt of any offer
- ✓ The broker must at minimum answer the party's questions and present any offer to or from the party
- ✓ A license holder with power of attorney or property management authority to bind a party is also a party

5.5 Representation Disclosure Requirements

A license holder who represents a party must disclose that representation—orally or in writing—at first contact with another party or with another license holder representing another party. Additionally, at the first substantive communication about specific real property, the license holder must provide written notice (at least 10-point font) describing: how a broker can represent a party (including as intermediary), the basic duties to a represented party, the basic obligations to a party the broker does not represent, and the name, license number, and contact info for the license holder and their supervisor/broker. TREC prescribes the notice text (the 'Information About Brokerage Services' form).

- ✓ Representation must be disclosed orally or in writing at first contact with another party or their license holder
- ✓ Written notice (min. 10-point font) must be given at first substantive communication about specific real property
- ✓ The written notice must describe brokerage representation options, duties, obligations, and provide license holder contact info
- ✓ TREC prescribes the text of the notice by rule

5.6 Broker Acting as Intermediary

A broker may act as intermediary between parties if the broker obtains written consent from each party and the written consent states the source of any expected compensation. A written listing/buyer-representation agreement authorizing intermediary status is sufficient consent if it specifies in conspicuous bold or underlined print the conduct prohibited under Section 1101.651(d). An intermediary must act fairly and impartially. Appointing associated license holders under 1101.560 is considered a fair and impartial act.

- ✓ A broker may act as intermediary only with written consent from each party stating the source of expected compensation
- ✓ A written listing or buyer agreement can establish consent if it specifies prohibited conduct in conspicuous bold/underlined print
- ✓ An intermediary must act fairly and impartially

5.7 Associated License Holder as Intermediary (Appointments)

A broker who complies with the written consent requirements of 1101.559 may appoint one associated license holder to communicate with and carry out instructions of one party, and another associated license holder for the other party. Appointments are allowed only if the parties' written consent authorizes them AND the broker provides written notice of the appointment to all parties. An appointed license holder may provide opinions and advice during negotiations to the party to whom they are appointed.

- ✓ A broker may appoint separate associated license holders to each party only with prior written consent authorizing appointments
- ✓ The broker must give written notice of the appointment to all parties
- ✓ An appointed license holder may give opinions and advice to the party to whom they are appointed

5.8 Duties of Intermediary Prevail; Mandatory Intermediary

The duties of a license holder acting as intermediary under this subchapter supersede duties under any other law, including common law. A broker MUST agree to act as an intermediary if the broker agrees to represent in one transaction both a buyer/tenant AND a seller/landlord.

- ✓ Intermediary duties under this subchapter supersede all other law, including common law
- ✓ A broker must act as intermediary if representing both a buyer/tenant and a seller/landlord in the same transaction

5.9 Written Buyer Agreement Required for Residential Property

A license holder who performs any act of real estate brokerage for a prospective buyer of residential real property must enter into a written agreement with the buyer BEFORE showing any residential real property, or—if none will be shown—before presenting an offer to purchase on the buyer's behalf. 'Residential real property' means a single-family house; a duplex, triplex, or quadraplex; or a unit in a multiunit residential structure where individual unit title transfers under a condominium or cooperative system.

- ✓ A written buyer agreement is required before showing any residential real property to a prospective buyer
- ✓ If no property will be shown, the written agreement is required before presenting a purchase offer on the buyer's behalf
- ✓ Residential real property includes single-family homes, 2-4 unit dwellings, and condo/co-op units

5.10 Fixed Office and Change of Address

A resident broker must maintain a fixed office in Texas, with the office address designated on the broker's license. If a broker moves from the designated address, the broker must submit an application (with fee) for a license designating the new office location no later than the 10th day after moving. A nonresident licensed broker is NOT required to maintain a place of business in Texas.

- ✓ A resident broker must maintain a fixed office in Texas with the address on the broker's license
- ✓ A broker who moves must apply for a license with the new address within 10 days of moving
- ✓ A nonresident licensed broker is not required to maintain a place of business in Texas

5.11 License Holder Information Updates to Commission

A license holder must provide TREC with current mailing address, business address, business telephone number, and business e-mail address, and if the holder is an associated broker, the name of the broker with whom they are associated. Any change in this information must be reported to the commission. An 'associated broker' is a broker who associates with and is paid through another broker under a relationship intended to be continuous, including as employee or ongoing independent contractor.

- ✓ License holders must keep current mailing address, business address, phone, and e-mail on file with TREC
- ✓ License holders must notify the commission of any change to the required information
- ✓ An associated broker is a broker paid through and associated with another broker in a continuous relationship

5.12 Exceptions to Representation Notice Requirement

A license holder need NOT provide the written representation notice (under Subsection (b-1)) if: (1) the proposed transaction is a residential lease for less than one year and a sale is not being considered; (2) the license holder meets with a party the holder knows is represented by another license holder; or (3) the communication occurs at property held open (open house) for any prospective buyer or tenant and concerns that property.

- ✓ No written notice required for a residential lease under one year with no sale considered
- ✓ No written notice required when meeting a party known to be represented by another license holder
- ✓ No written notice required at an open house when communication concerns that open property

5.13 Property Showings Without Representation

A broker may show property for sale or lease without representing a party if the broker: has not agreed to represent the party, is not otherwise acting as the party's agent, does not provide opinions or advice about the property or transactions generally, and performs no other act of real estate brokerage for the party. Before showing, the broker must disclose representation (per 1101.558(b)) if representing the owner, or provide the written notice (per 1101.558(b-1)) if not representing the owner. The broker may still confirm size, price, and terms of the property.

- ✓ A broker may show property without representation only if not agreeing to represent, not acting as agent, and giving no opinions/advice
- ✓ Before showing, the broker must make the appropriate representation disclosure or provide the written notice
- ✓ The broker may confirm size, price, and terms even when not representing the party

5.14 Display of License by Rental Locator

A residential rental locator must prominently display, in a place accessible to clients and prospective clients: the locator's license, a statement that the locator is licensed by the commission, and the consumer protection notice required by Section 1101.202(a).

- ✓ A residential rental locator must prominently display the license and a statement of licensure
- ✓ The display must include the notice required under Section 1101.202(a)

CHAPTER 6

Subch. M: Real Estate Recovery Trust Account

6.1 Purpose of the Recovery Trust Account

TREC maintains a Real Estate Recovery Trust Account to reimburse aggrieved persons who suffer actual damages caused by wrongful acts of license holders, certificate holders, or their unlicensed employees/agents. The person who committed the act must have held the license or certificate at the time the act was committed. A claim against a business entity license holder is also treated as a claim against that entity's designated broker.

- ✓ The account reimburses aggrieved persons for actual damages caused by license holders, certificate holders, or their unlicensed employees/agents (Sec. 1101.601)
- ✓ The wrongdoer must have held the license/certificate at the time the act was committed
- ✓ A claim against a business entity license holder is also a claim against its designated broker (Sec. 1101.6011)

6.2 Entitlement to Reimbursement

An aggrieved person is entitled to reimbursement from the trust account only when a covered person engages in conduct requiring a license or certificate and that conduct is described in specific statutory grounds—Sec. 1101.652(a-1)(1) or (b) for license holders, or Sec. 1101.653(1)-(4) for certificate holders. This ties recovery to statutorily prohibited/dishonest conduct, not mere contract disputes.

- ✓ Recovery requires conduct that itself requires a license/certificate under Chapter 1101
- ✓ For license holders, the act must fall under Sec. 1101.652(a-1)(1) or (b); for certificate holders, under Sec. 1101.653(1)-(4)
- ✓ Reimbursement is limited to 'actual damages' (not punitive damages, interest limits apply separately)

6.3 Deadline to File Action and Notice to Commission

An action for a judgment that may result in payment from the trust account must be brought no later than the second anniversary of the date the cause of action accrues (a 2-year limitations period). If seeking an agreed judgment, the aggrieved person and the license/certificate holder must notify the commission in writing before entry and deliver copies of pleadings and the proposed judgment. TREC then has 30 days to notify the parties if it intends to relitigate the issues.

- ✓ An action must be brought within 2 years (second anniversary) of the cause of action accruing (Sec. 1101.605(a))
- ✓ For an agreed judgment, both parties must notify TREC in writing and deliver pleadings before entry (Sec. 1101.605(b))
- ✓ TREC has until the 30th day after receiving documents to state its intent to relitigate

6.4 Procedure to Claim Payment

After obtaining a court judgment for a covered act, the aggrieved person must have final judgment entered, execution returned nulla bona, and a judgment lien perfected before filing a verified claim in the court that entered the judgment. After 20 days' written notice to the commission and judgment debtor, the person may apply for a payment order. A hearing must be scheduled within one year of filing the application or recovery is waived. Where multiple jointly-and-severally-liable defendants exist, the claimant must first obtain judgment and pursue collection against all defendants.

- ✓ Claimant must exhaust remedies: final judgment, execution returned nulla bona, and perfected judgment lien before filing (Sec. 1101.606(a))
- ✓ Must give 20 days' written notice to commission and judgment debtor before applying (Sec. 1101.606(b))
- ✓ Recovery is waived if a hearing is not scheduled within one year of filing the application
- ✓ With multiple jointly/severally liable defendants, claimant must pursue all defendants first (Sec. 1101.606(c-1))

6.5 Issues the Claimant Must Prove at Hearing

At the payment hearing the aggrieved person must show: the judgment is based on facts allowing recovery under the subchapter; the person is NOT the judgment debtor's spouse (or spouse's representative), NOT a license/certificate holder seeking a commission in the same transaction, and NOT related to the debtor within the first degree of consanguinity; that the debtor lacks sufficient attachable assets; the amount realizable from the debtor's assets; and the balance remaining due after applying those assets.

- ✓ The judgment must rest on facts allowing recovery under the subchapter (Sec. 1101.607(1))
- ✓ Ineligible claimants include the debtor's spouse, a license holder seeking a commission in the transaction, and relatives within the first degree of consanguinity (Sec. 1101.607(2))
- ✓ Claimant must show the debtor lacks sufficient attachable assets and prove the remaining balance due

6.6 Payment Limits and Attorney's Fees

Payments from the trust account—including attorney's fees, interest, and court costs—arising out of a single transaction may not exceed $125,000 total, regardless of the number of claimants. Payments based on judgments against a single license/certificate holder may not exceed $250,000 total until that holder reimburses the account for all amounts paid. If total claims exceed the limits, the court proportionately reduces each claim. A business entity and its designated broker count as a single license holder for these limits.

- ✓ Maximum $125,000 per single transaction, including fees, interest, and costs, regardless of number of claimants (Sec. 1101.610(a))
- ✓ Maximum $250,000 aggregate against a single license/certificate holder until the holder repays the account (Sec. 1101.610(b))
- ✓ Excess claims are reduced proportionately by the court (Sec. 1101.610(c))
- ✓ A business entity and its designated broker are treated as one license holder for the limits (Sec. 1101.610(e))

6.7 Funding of the Trust Account

The account is funded primarily through administrative penalties collected under Subchapter O, which the commission must deposit to the account's credit. TREC by rule may also collect fees or assessments from applicants for original licenses/certificates or from license/certificate holders at renewal to keep sufficient funds available for anticipated claims. Investment interest is also credited to the account.

- ✓ Administrative penalties collected under Subchapter O are deposited to the trust account (Sec. 1101.603(c))
- ✓ TREC may by rule collect fees/assessments from applicants or at renewal to keep the account funded (Sec. 1101.603(f))
- ✓ Interest earned on account investments is deposited back into the account (Sec. 1101.604(c))

6.8 Bankruptcy Good-Faith Effort Exception

If a bankruptcy court prevents the aggrieved person from executing the judgment or perfecting a judgment lien, the person must instead verify to TREC that they made a good-faith effort to protect the judgment from being discharged in bankruptcy. TREC may adopt rules prescribing what actions are needed to demonstrate that good-faith effort.

- ✓ A bankruptcy stay excuses the execution/lien requirement if the claimant verifies a good-faith effort to protect the judgment (Sec. 1101.606(c))
- ✓ TREC may prescribe by rule the actions needed to demonstrate good faith (Sec. 1101.606(d))

6.9 Commission Response and Right to Relitigate

On receiving notice, TREC may agree to pay all or part of the claim without a hearing. If no settlement is reached or the commission disputes eligibility, it may notify the attorney general and defend the action. TREC and the AG may act only to protect the account from spurious/unjust claims or to ensure compliance. Importantly, TREC may relitigate any material and relevant issue previously decided—even an agreed judgment—in favor of the aggrieved person.

- ✓ TREC may settle a claim without a hearing or defend through the attorney general (Sec. 1101.608(a))
- ✓ TREC/AG may act only to protect the account from spurious claims or ensure compliance (Sec. 1101.608(b))
- ✓ TREC may relitigate any material issue, including issues resolved by an agreed judgment (Sec. 1101.608(c))

6.10 Court Order for Payment

The court must order TREC to pay the amount it finds payable if satisfied of the truth of each matter the claimant is required to show under Sec. 1101.607 and that the claimant satisfied all requirements of Secs. 1101.606 and 1101.607.

- ✓ Payment is ordered only if the court is satisfied of the truth of each Sec. 1101.607 showing (Sec. 1101.609(1))
- ✓ The claimant must satisfy every requirement of both Sec. 1101.606 and Sec. 1101.607 (Sec. 1101.609(2))

6.11 Subrogation and Reimbursement Priority

When TREC pays a claim, it is subrogated to all the judgment creditor's rights up to the amount paid, and the creditor must assign that portion of the judgment to the commission. TREC has priority for repayment from any subsequent recovery on the judgment, and any amount TREC recovers is deposited back to the trust account.

- ✓ TREC is subrogated to the judgment creditor's rights up to the amount paid, and the creditor must assign the judgment (Sec. 1101.612(a))
- ✓ TREC has priority for repayment from any later recovery on the judgment (Sec. 1101.612(b))
- ✓ Amounts recovered are redeposited to the trust account (Sec. 1101.612(c))

6.12 Effect on License Discipline

The recovery trust account provisions do not limit TREC's authority to take disciplinary action against a license or certificate holder. A holder's repayment of all amounts owed to the trust account does not affect any separate disciplinary proceeding. Note: under related license-law provisions, a license holder whose acts caused a trust account payment typically faces license suspension until the amount plus interest is repaid.

- ✓ Trust account provisions do not limit TREC's disciplinary authority (Sec. 1101.613(a))
- ✓ Repaying the trust account does not stop a separate disciplinary proceeding (Sec. 1101.613(b))

6.13 Waiver of Rights for Noncompliance

An aggrieved person who does not comply with the requirements of this subchapter waives all rights under it. Strict compliance with each procedural and eligibility requirement is essential to recover from the trust account.

- ✓ Failure to comply with any subchapter requirement waives all rights to recovery (Sec. 1101.614)
- ✓ Compliance with the subchapter is a strict prerequisite to trust account recovery

6.14 Management and Investment of Trust Account

TREC holds the trust account money in trust to carry out its purpose. Funds may be invested in the same manner as Employees Retirement System of Texas money, but no investment may impair the liquidity needed to pay claims. All interest from investments is deposited to the account's credit.

- ✓ TREC holds account money in trust for its statutory purpose (Sec. 1101.604(a))
- ✓ Investments may follow ERS of Texas rules but must not impair liquidity for paying claims (Sec. 1101.604(b))

6.15 Application of Recovery to Actual Damages

An aggrieved person who receives any recovery on a judgment against a single defendant before receiving trust account payment must apply that recovery first to actual damages (before fees, interest, or costs).

- ✓ Recovery received before a trust account payment must be applied first to actual damages (Sec. 1101.611)
- ✓ This ordering rule applies to recoveries against a single defendant

6.16 TREC Rules on the Recovery Account (22 TAC Ch. 535)

Because TREC rules in 22 TAC Chapter 535 supplement the statute, exam candidates should know the account is also referred to as the 'Real Estate Recovery Trust Account' administered by TREC, that recovery is only for actual (out-of-pocket) damages arising from a real estate transaction, and that a license holder acting outside the scope of the real estate transaction (e.g., a personal investment or a transaction as a principal) is generally not a covered act. Certificate holders referenced are Right-of-Way agents/registrants under Chapter 1101.

- ✓ The trust account (22 TAC Ch. 535) covers only actual damages arising from a real estate brokerage transaction, not personal or principal transactions
- ✓ Punitive damages, exemplary damages, and interest beyond statutory limits are generally not recoverable from the account

CHAPTER 7

Subch. N: Prohibited practices and disciplinary proceedings (1101.651–1101.663)

7.1 Compensation Restrictions for Brokers and Sales Agents

Section 1101.651 restricts who may be paid or pay compensation. A licensed broker may not pay a commission to or otherwise compensate a person (directly or indirectly) for performing an act of a broker unless the person is a license holder, or is a real estate broker licensed in another state who conducts no negotiations in Texas. A sales agent may only accept compensation from the sponsoring broker (or the broker who sponsored them when the compensation was earned), and may only pay a commission through their current sponsoring broker.

- ✓ A broker may only compensate a license holder or an out-of-state broker who conducts no Texas negotiations
- ✓ A sales agent may accept compensation only from their sponsoring broker (current or the one sponsoring when earned)
- ✓ A sales agent may pay a commission to a person only through their current sponsoring broker

7.2 Intermediary Prohibited Disclosures and Conduct

A broker and any broker or sales agent appointed under Section 1101.560 acting as an intermediary under Subchapter L may not: disclose that the seller/landlord will accept less than the asking price (unless instructed in a separate writing), disclose that the buyer/tenant will pay more than the written offer (unless instructed in a separate writing), disclose confidential information or information a party instructed in writing not to disclose (with narrow exceptions), treat a party dishonestly, or violate the chapter. Exceptions to the confidentiality rule: separate written instruction by the party, disclosure required by the chapter or court order, or information materially relating to the condition of the property.

- ✓ Cannot disclose seller/landlord will accept less than asking price unless separately instructed in writing
- ✓ Cannot disclose buyer/tenant will pay more than the written offer unless separately instructed in writing
- ✓ Cannot disclose confidential info except when separately instructed in writing, required by chapter/court order, or the info materially relates to property condition
- ✓ May not treat any party to the transaction dishonestly

7.3 Grounds for Suspension or Revocation of License

Section 1101.652(a) lists general grounds including: pleading guilty/nolo or being convicted of a felony or fraud-related offense (after appeal time elapses), procuring a license by fraud or material misstatement, failing to honor a payment to the commission within a reasonable time, failing to timely provide requested complaint information, failing to surrender documents to owners without just cause, failing to consider market conditions, failing to notify the commission within 30 days of a fraud/felony conviction or plea, and disregarding or violating the chapter or Chapter 1102. Subsection (a-1) adds: misrepresentation/dishonesty/fraud in transactions in the license holder's own name (or spouse/first-degree relative), refusing to produce records for inspection, and failing to use a required TREC contract form.

- ✓ Felony or fraud conviction/plea is a ground for discipline once appeal time elapses
- ✓ Must notify the commission within 30 days of a final conviction or plea to a felony or fraud offense
- ✓ Failing to use a TREC-required contract form under 1101.155 is a ground for discipline
- ✓ Misrepresentation/fraud in transactions in the holder's own name, spouse's, or first-degree relative's name is a ground for discipline

7.4 Grounds Related to Real Estate Brokerage Conduct

Section 1101.652(b) provides an extensive list of disciplinary grounds when engaged in real estate brokerage, including: acting negligently/incompetently; dishonesty, bad faith, or untrustworthiness; material misrepresentation of a significant/latent defect known to the holder; failing to disclose a known defect to a buyer; false promises; a continued and flagrant course of misrepresentation; failing to make clear whom the holder represents; accepting compensation from more than one party without full knowledge and consent of all; failing to timely account for/remit money belonging to another; commingling; improper commission splitting; and failing to specify a definite termination date in a contract.

- ✓ Failing to disclose a known significant or latent structural defect to a potential buyer is a ground for discipline
- ✓ Receiving compensation from more than one party requires full knowledge and consent of all parties
- ✓ Commingling client money with the holder's own money is prohibited
- ✓ A listing/agency contract (other than property management) must specify a definite termination date not subject to prior notice

7.5 Additional Prohibited Brokerage Practices

Section 1101.652(b) continues with grounds including: undisclosed commissions/rebates/profits on principal expenditures; selling property by lottery or deceptive practice; acting as broker and undisclosed principal; guaranteeing future resale profits; placing signs or offering property without owner consent or on unauthorized terms; inducing contract breaches to substitute a new contract; interfering with exclusive agency; misleading advertising (including failing to include the broker's name); inaccurate statements of account; unwarranted threats of legal proceedings; unlicensed assistant violations; aiding circumvention of the chapter; failing to provide copies of signed documents; failing to advise buyers in writing to have the abstract examined or obtain title insurance; escrow deposit and disbursement violations; and discrimination.

- ✓ Must include the broker's name in advertisements and cannot publish misleading advertising
- ✓ Cannot place a sign or offer property for sale/lease without the owner's written consent or on unauthorized terms
- ✓ Must advise a buyer in writing before closing to have the abstract examined by an attorney or obtain a title insurance policy
- ✓ Cannot accept undisclosed commissions, rebates, or direct profit on expenditures made for a principal

7.6 Escrow and Trust Fund Handling Requirements

Under Section 1101.652(b)(30)-(31), a license holder must deposit escrow/trust funds within a reasonable time either in trust with a Texas-authorized title company or in a custodial, trust, or escrow account maintained for that purpose in a Texas-authorized banking institution. It is a violation to disburse money from such an account before the completion or termination of the real estate transaction.

- ✓ Escrow/trust funds must be deposited within a reasonable time with a title company or in a proper custodial/trust/escrow account at a Texas-authorized bank
- ✓ Money in an escrow/trust account cannot be disbursed before the transaction is completed or terminated

7.7 Fair Housing Discrimination Prohibition

Section 1101.652(b)(32) prohibits discriminating against an owner, potential buyer, landlord, or potential tenant on the basis of race, color, religion, sex, disability, familial status, national origin, or ancestry. This includes steering — directing a prospective buyer or tenant interested in equivalent properties to a different area based on those protected characteristics.

- ✓ Discrimination based on race, color, religion, sex, disability, familial status, national origin, or ancestry is a ground for discipline
- ✓ Steering (directing buyers/tenants to different areas based on protected class) is expressly prohibited

7.8 Written Buyer Representation Agreement Requirement

Section 1101.652(b)(34), effective January 1, 2026, makes it a disciplinary ground to fail to enter into a written agreement with a prospective buyer as required by Section 1101.563. This reflects the new mandate that buyer representation be documented in writing.

- ✓ A license holder must enter into a written agreement with a prospective buyer as required by Section 1101.563
- ✓ Failing to do so (effective Jan. 1, 2026) is a ground for suspension or revocation

7.9 Suspension/Revocation for Unauthorized Practice of Law

Section 1101.654 requires the commission to suspend or revoke the license or certificate of a non-attorney holder who, for consideration, drafts an instrument (other than a TREC form under 1101.155) that transfers or affects an interest in real property, or advises a person on the validity/legal sufficiency of an instrument or title. However, completing a commission-adopted contract form (or an attorney-prepared/owner-required form) incidental to acting as a broker is NOT unauthorized practice of law.

- ✓ A non-attorney holder may not draft instruments affecting real property interests or advise on legal sufficiency/title validity
- ✓ Completing a TREC-adopted contract form incidental to brokerage is not unauthorized practice of law
- ✓ Forms prepared/approved by a Texas attorney or prepared by/required by the property owner are also permitted

7.10 Revocation for Claim on Recovery Trust Account

Section 1101.655 requires the commission to revoke a license, approval, or registration if a payment is made from the Real Estate Recovery Trust Account on the holder's behalf and the holder fails to repay the full amount (plus interest at the legal rate) before the 31st day after the commission provides notice. A person is not eligible for a new license until repayment in full is made. If payment was made on behalf of a business entity or its designated broker, the commission proceeds against both.

- ✓ The commission must revoke if a recovery trust account payment is not fully repaid within 30 days (before the 31st day) after notice
- ✓ No new license/certificate is issued until full repayment plus legal-rate interest is made
- ✓ When paid for a business entity, action proceeds against both the entity and its designated broker

7.11 Notice to Consumers and Service Recipients

TREC by rule prescribes a notice regarding the availability of payment from the trust account (Real Estate Recovery Trust Account) for aggrieved persons. The commission establishes methods by which each license and certificate holder must provide this notice to consumers and service recipients.

- ✓ The commission by rule prescribes the consumer notice about trust account payment availability for aggrieved persons
- ✓ Each license and certificate holder must provide the notice to consumers and service recipients using commission-prescribed methods

7.12 Additional Disciplinary Authority and Probation

Section 1101.656 gives the commission broad authority to suspend or revoke a license, place a suspended license holder on probation, or reprimand a license holder for any violation of the chapter or a commission rule. The commission may probate a suspension, revocation, or cancellation on reasonable terms, which may require regular reporting, limiting practice to a prescribed area, or continuing professional education until adequate skill is attained.

- ✓ The commission may suspend, revoke, reprimand, or probate for any violation of the chapter or a TREC rule
- ✓ Probation terms may include regular reporting, limited practice areas, or continued education until skill is satisfactory

7.13 Hearings and Appeals for Disciplinary Actions

Under Section 1101.657, if the commission proposes to deny, suspend, or revoke a license or certificate, the person is entitled to a hearing conducted by the State Office of Administrative Hearings (SOAH), governed by the contested case procedures of Chapter 2001, Government Code. Section 1101.658 allows a person aggrieved by a ruling, order, or decision to appeal to a district court in the county where the administrative hearing was held, governed by Chapter 2001.

- ✓ Denial, suspension, or revocation entitles the person to a SOAH hearing under the Administrative Procedure Act (Ch. 2001)
- ✓ Appeals go to district court in the county where the hearing was held

7.14 Refunds and Informal Proceedings

Section 1101.659 permits the commission to order a regulated person to pay a consumer a refund (via informal settlement agreement or enforcement order) instead of or in addition to an administrative penalty; the refund may not exceed what the consumer paid for the service, and no other damages or estimated harm may be required. Section 1101.660 requires TREC rules for informal disposition of contested cases that give the complainant and holder an opportunity to be heard and require the presence of a public commission member (for consumer complaints) and at least two experienced staff members.

- ✓ A refund order cannot exceed the amount the consumer paid and cannot include other damages or estimated harm
- ✓ Informal proceedings must allow the complainant and holder to be heard and require a public member (consumer complaints) plus two experienced staff

7.15 Temporary Suspension for Continuing Threat

Section 1101.662 provides that the presiding officer appoints a three-member disciplinary panel to determine whether a license should be temporarily suspended. If the panel finds continued practice would constitute a continuing threat to the public welfare, it must temporarily suspend the license. This may occur without notice or hearing if a contested case hearing is initiated simultaneously and a hearing is held as soon as possible; the panel may meet by telephone conference if immediate action is needed.

- ✓ A three-member disciplinary panel may temporarily suspend a license when continued practice is a continuing threat to public welfare
- ✓ Temporary suspension may occur without prior notice/hearing if a contested case is initiated simultaneously and a hearing follows promptly

7.16 Grounds for Suspension or Revocation of Certificate

Section 1101.653 lists grounds for disciplining a certificate of registration holder (easement/right-of-way agents), including: dishonest dealing, fraud, unlawful discrimination, or a deceptive act; misrepresentation; bad faith; untrustworthiness; failing to honor a payment to the commission; failing to provide a required written notice before a party is obligated in a right-of-way/easement transaction; accepting a financial incentive to make a lowball initial offer known to be below constitutionally adequate compensation; and disregarding or violating the chapter or commission rules.

- ✓ Certificate holders may be disciplined for dishonesty, fraud, unlawful discrimination, misrepresentation, bad faith, or untrustworthiness
- ✓ Certificate holders must provide the prescribed written notice (with name, certificate number, principal represented, and advisory statements) before a party is obligated in an easement/right-of-way transaction
- ✓ Accepting an incentive to make an initial offer known to be below adequate compensation is a ground for

discipline

7.17 Suspension/Revocation of Educational Program

Section 1101.6561 allows the commission to suspend or revoke the approval to offer a program or course of study issued under Subchapter G, or take other disciplinary action, if the provider violates the chapter or a rule adopted under it.

- ✓ TREC may discipline approved education providers who violate the chapter or its rules
- ✓ Approval to offer a program/course under Subchapter G may be suspended or revoked

CHAPTER 8

Subch. O–Q: Administrative penalty, other penalties and enforcement, liability provisions

8.1 Imposition of Administrative Penalty

TREC may impose an administrative penalty on any person who violates Chapter 1101 or a rule/order adopted under it. The commission must combine administrative penalty and disciplinary proceedings into a single enforcement procedure, and may combine a penalty proceeding with another disciplinary action such as license suspension or revocation.

- ✓ TREC may impose an administrative penalty for violating Chapter 1101 or a TREC rule/order
- ✓ Administrative penalty proceedings may be combined with suspension or revocation proceedings
- ✓ Enforcement is handled as a single combined procedure

8.2 Amount of Administrative Penalty

An administrative penalty may not exceed $5,000 per violation, and each day a violation continues may be treated as a separate violation. The executive director sets the amount considering seriousness, history of prior violations, deterrence, correction efforts, and other factors justice requires. TREC must adopt a penalty schedule by rule and may suspend or revoke a license instead of or in addition to a penalty.

- ✓ Maximum administrative penalty is $5,000 per violation
- ✓ Each day a violation continues may be a separate violation
- ✓ Factors: seriousness, prior violations, deterrence, correction efforts, and justice
- ✓ TREC may suspend/revoke instead of or in addition to a penalty

8.3 General Liability of Broker

A licensed broker is liable to TREC, the public, and the broker's clients for any conduct engaged in under this chapter by the broker or by a sales agent associated with or acting for the broker. This liability extends to the acts of sponsored sales agents and is not diminished by the misrepresentation liability provisions.

- ✓ A broker is liable for conduct by the broker and by sales agents acting for the broker
- ✓ Broker liability runs to TREC, the public, and the broker's clients
- ✓ Misrepresentation liability rules do not diminish a broker's responsibility for sales agents

8.4 Liability for Misrepresentation or Concealment

A party is not liable for a misrepresentation or concealment of a material fact made by a license holder unless the party knew of the falsity and failed to disclose it. Likewise, a license holder is not liable for a party's misrepresentation/concealment unless the license holder knew of the falsity and failed to disclose it. This section prevails over any other law, including common law.

- ✓ A party is not liable for a license holder's misrepresentation unless the party knew and failed to disclose
- ✓ A license holder is not liable for a party's misrepresentation unless the license holder knew and failed to disclose
- ✓ This section prevails over other law, including common law

8.5 Liability for Payment of Compensation or Commission

A person may not sue to collect compensation for acting as a broker or sales agent in Texas unless they allege and prove they were a license holder when the act began (or an attorney licensed in any state). An action to recover a real estate commission requires a written, signed agreement or memorandum. A license holder who fails to advise a buyer under Section 1101.555 may not recover the commission.

- ✓ A person must have been a license holder (or a licensed attorney) to sue for commission
- ✓ A commission-recovery action requires a written agreement signed by the party charged
- ✓ Failing to advise a buyer per Sec. 1101.555 forfeits the commission

8.6 Notice of Violation and Penalty Process

After investigating, if the executive director determines a violation occurred, a notice of violation is issued stating a summary of the alleged violation, the recommended penalty/sanction, and the right to a hearing. The person has 20 days after receiving the notice to either accept the determination or request a hearing in writing. Failing to respond timely results in the commission ordering the recommended penalty.

- ✓ Notice of violation must state the alleged violation, recommended penalty, and right to a hearing
- ✓ Person has 20 days to accept or request a hearing in writing
- ✓ Failure to respond timely means the commission approves the recommended penalty

8.7 Hearing and Decision on Penalty

If a hearing is requested, a State Office of Administrative Hearings (SOAH) administrative law judge conducts it, makes findings of fact and conclusions of law, and issues a proposal for decision. Based on that, TREC may order a penalty or find no violation. The proceeding is subject to Chapter 2001 (APA), and the order notice must state the right to judicial review.

- ✓ A SOAH administrative law judge conducts the hearing and issues a proposal for decision
- ✓ TREC's order must include a statement of the right to judicial review
- ✓ Proceedings are governed by the Administrative Procedure Act (Gov't Code Ch. 2001)

8.8 Options After Final Order: Pay or Appeal

Within 30 days after the order becomes final, the person must pay the penalty or file a petition for judicial review. Enforcement can be stayed by paying into escrow, posting a supersedeas bond, or filing an affidavit of financial inability to pay. If financially unable, the person bears the burden of proving inability to both pay and post bond.

- ✓ Within 30 days of a final order, the person must pay or file for judicial review
- ✓ Enforcement may be stayed by escrow payment, supersedeas bond, or affidavit of inability to pay
- ✓ The person filing an affidavit bears the burden of proving financial inability

8.9 Civil and Private Penalties for Unlicensed Activity

A person who receives a commission or other consideration for acting as a broker or sales agent without a license or certificate is liable to the state (civil penalty) and separately to an aggrieved person (private action) for not less than the amount received nor more than three times the amount received. TREC can recover the civil penalty, court costs, and attorney's fees.

- ✓ Unlicensed activity penalty: not less than the amount received, up to three times that amount
- ✓ Both the state (civil) and an aggrieved private party may recover this penalty
- ✓ TREC may also recover court costs and reasonable attorney's fees

8.10 Criminal Penalties for Unlicensed Practice

Willfully violating Chapter 1101 or a TREC order is a Class A misdemeanor. Acting as a broker or sales agent, engaging in certificate-required activity, or operating as a residential rental locator without the required license/certificate is each a Class A misdemeanor.

- ✓ Willful violation of Chapter 1101 or a TREC order is a Class A misdemeanor
- ✓ Acting as a broker/sales agent without a license is a Class A misdemeanor
- ✓ Operating as an unlicensed residential rental locator is a Class A misdemeanor

8.11 Disciplinary Action Does Not Bar Other Liability

Disciplinary action taken against a person under Section 1101.652 does not relieve that person from civil or criminal liability. However, a person is not civilly or criminally liable for failing to inquire about, disclose, or release information about whether a current or former occupant had or may have had AIDS, an HIV-related illness, or HIV infection.

- ✓ Disciplinary action does not eliminate separate civil or criminal liability
- ✓ No liability for failing to disclose a prior/current occupant's HIV/AIDS status

8.12 Collection, Remittance, and Court Determination

If the penalty is unpaid and not stayed, the executive director may refer collection to the attorney general; if the AG declines, TREC may collect by any lawful means. On judicial review, the court may uphold or reduce the penalty; if no violation is found, no penalty is owed. Reduced or overturned penalties (plus interest at the NY Federal Reserve rate) are remitted, and supersedeas bonds are released.

- ✓ Unpaid penalties may be referred to the attorney general for collection
- ✓ A court may uphold or reduce a penalty, or find no penalty owed
- ✓ Remitted penalties accrue interest at the New York Federal Reserve Bank rate

8.13 Injunctive Actions by Commission

TREC may bring an action in its own name to enjoin violations of Chapter 1101 or a rule, without alleging or proving that no adequate legal remedy exists or that irreparable damage would result. Additionally, acting through the attorney general (or a county/district attorney), TREC may seek to abate or enjoin actual or potential violations in district court. The commission need not post bond and court costs cannot be recovered from it.

- ✓ TREC may seek an injunction without proving inadequacy of legal remedy or irreparable harm
- ✓ Injunctive actions may be brought through the attorney general or county/district attorney
- ✓ TREC is not required to post bond and court costs cannot be recovered from it

8.14 Cease and Desist Orders

If it appears a person is violating Chapter 1101 or Chapter 1102 (or their rules), TREC, after notice and an opportunity for a hearing, may issue a cease and desist order prohibiting the activity. Violating a cease and desist order is grounds for an administrative penalty under Subchapter O.

- ✓ TREC may issue a cease and desist order after notice and opportunity for hearing
- ✓ A cease and desist order may cover violations of Chapter 1101 or Chapter 1102
- ✓ Violating the order is grounds for an administrative penalty

8.15 Liability for Providing Sales Price Information

A license holder or nonprofit real estate board/association that provides real property sales price or sale-term information to facilitate listing, selling, leasing, financing, or appraisal is not liable to another person for providing that information, unless disclosure is specifically prohibited by statute.

- ✓ Providing sales price/terms information for listing, selling, leasing, financing, or appraisal is protected from liability
- ✓ Protection is lost only if disclosure is specifically prohibited by statute

8.16 Failure to Appear at Hearing; Costs

If a respondent receives proper notice of a contested case hearing but does not appear, the administrative law judge may conduct the hearing or enter an order, and the respondent is bound as if present. The ALJ may award TREC reasonable costs on proof of costs incurred, including SOAH charges, discovery, depositions, subpoenas, service, witness/travel expenses, and investigation costs.

- ✓ A respondent who fails to appear despite proper notice is bound by the hearing results
- ✓ The ALJ may award TREC reasonable costs including SOAH, discovery, and investigation expenses

CHAPTER 9

Ch. 1102 Real Estate Inspectors: definitions, license levels, prohibited acts, discipline

9.1 Inspector Definitions and License Levels

Chapter 1102 defines three levels of inspector licenses in a hierarchy. An apprentice inspector trains under direct supervision of a professional or real estate inspector. A real estate inspector works under indirect supervision of a professional inspector. A professional inspector represents to the public that they are trained and qualified to perform real estate inspections and accepts employment for buyers or sellers. A 'real estate inspection' is a written or oral opinion as to the condition of improvements to real property, including structural items, electrical items, mechanical systems, plumbing systems, or equipment.

- ✓ Three license types: apprentice inspector, real estate inspector, professional inspector
- ✓ Apprentice works under direct supervision; real estate inspector works under indirect supervision of a professional inspector
- ✓ A real estate inspection is a written or oral opinion on the condition of improvements to real property
- ✓ 'Inspector' means any person who holds a license under Chapter 1102

9.2 License Requirements by Level

A person may not act as an apprentice inspector unless they hold an apprentice license AND are under direct supervision of a real estate or professional inspector. A person may not act as a real estate inspector unless they hold that license AND are under indirect supervision of a professional inspector. A person may not act as a professional inspector unless they hold a professional inspector license.

- ✓ Apprentice inspectors must be under direct supervision
- ✓ Real estate inspectors must be under indirect supervision of a professional inspector
- ✓ Professional inspectors need no supervision to practice

9.3 Prohibited Acts for Inspectors

An inspector may not perform an inspection negligently or incompetently. An inspector may not accept an assignment where the fee is contingent on reporting a predetermined condition or specific findings the inspector knows to be untrue, and may not act dishonestly, fraudulently, or with deceit or misrepresentation. An inspector may not act in the dual capacity of inspector and undisclosed principal or broker/salesperson, and may not perform or agree to perform repairs or maintenance in connection with an inspection under an earnest money contract, lease, or exchange.

- ✓ Inspections may not be performed negligently or incompetently
- ✓ Fees may not be contingent on reporting a predetermined condition or false findings
- ✓ An inspector may not act as both inspector and undisclosed principal or broker/salesperson
- ✓ An inspector may not perform repairs/maintenance in connection with an inspection under a contract, lease, or exchange

9.4 Direct vs. Indirect Supervision

Direct supervision means the person is instructed and controlled by a professional or real estate inspector who is responsible for the person's actions, available to consult or assist, AND physically present at the time and place of the inspection. Indirect supervision means the person is instructed and controlled by a professional inspector who is responsible for their actions and available to consult or assist, but need NOT be physically present.

- ✓ Direct supervision requires the supervisor to be physically present at the inspection
- ✓ Indirect supervision does not require physical presence, only availability to consult
- ✓ Only a professional inspector can provide indirect supervision

9.5 Eligibility for Apprentice and Real Estate Inspector Licenses

An apprentice inspector applicant must be at least 18, a U.S. citizen or lawfully admitted alien, sponsored by a professional inspector, and satisfy the commission as to honesty, trustworthiness, and integrity. A real estate inspector applicant must have held an apprentice license at least three months, performed at least 25 inspections under direct supervision, completed at least 90 classroom hours of core courses, pass the exam, be sponsored by a professional inspector, and satisfy honesty/competence standards.

- ✓ Apprentice applicant must be at least 18 years old
- ✓ Real estate inspector: held apprentice license 3+ months and performed 25+ inspections under direct supervision
- ✓ Real estate inspector requires 90 classroom hours of core real estate inspection courses
- ✓ Both require sponsorship by a professional inspector

9.6 Eligibility for Professional Inspector License

A professional inspector applicant must have held a real estate inspector license for at least 12 months, performed at least 175 real estate inspections under indirect supervision, completed at least 40 classroom hours of core courses (in addition to the 90 required for real estate inspector), pass the examination, and satisfy the commission as to honesty, trustworthiness, integrity, and competence.

- ✓ Must have held a real estate inspector license at least 12 months
- ✓ Must have performed at least 175 inspections under indirect supervision
- ✓ Requires 40 additional classroom hours beyond the real estate inspector requirement

9.7 Financial Responsibility Requirement

An inspector must maintain financial responsibility either through a liability insurance policy with a minimum limit of $100,000 per occurrence and $100,000 aggregate annual total providing professional liability coverage against Subchapter G violations, OR a bond/other security accepted by the commission. A bond must be at least $100,000, continuous, and cancellable only after 90 days' written notice. Proof of financial responsibility is required for license issuance and renewal.

- ✓ Minimum liability coverage is $100,000 per occurrence and $100,000 aggregate annual
- ✓ Alternative is a bond of at least $100,000 that is continuous
- ✓ Proof of financial responsibility is a condition of both issuance and renewal

9.8 License Term, Renewal, and Continuing Education

Licenses may be issued or renewed for up to 24 months. A license expired 90 days or less renews at 1.5 times the renewal fee; expired more than 90 days but less than six months renews at 2 times the fee. A license expired six months or longer cannot be renewed—the person must obtain a new license. Renewal requires at least 16 classroom hours of core or continuing education courses for each year of the license period, plus felony disclosure.

- ✓ Licenses may be issued/renewed for up to 24 months
- ✓ Expired 90 days or less = 1.5x fee; 90 days to 6 months = 2x fee; over 6 months = cannot renew
- ✓ Renewal requires 16 classroom hours of continuing education per year of the license period
- ✓ Applicants must disclose felony pleas or convictions at renewal

9.9 Disciplinary Powers and Penalties

After notice and hearing, the commission may reprimand, place on probation, or suspend/revoke an inspector's license for chapter or rule violations. A revoked inspector cannot reapply until one year after revocation. The commission may impose administrative penalties. Willful violation is a Class A misdemeanor, as is knowingly engaging in real estate inspecting without a license (including while suspended or revoked). A disciplinary panel may temporarily suspend a license without notice if the inspector poses a continuing threat to public welfare.

- ✓ Commission may reprimand, place on probation, suspend, or revoke a license after notice and hearing
- ✓ A revoked inspector may not reapply until one year after revocation
- ✓ Practicing without a license or willful violation is a Class A misdemeanor
- ✓ A three-member disciplinary panel may temporarily suspend a license for a continuing threat to public welfare

9.10 Applicability and Exemptions from Chapter

Chapter 1102 does not apply to a person who repairs, maintains, or inspects improvements to real property (such as an electrician, plumber, carpenter, or pest control operator) if that person does not represent to the public through personal solicitation or public advertising that they are in the business of inspecting improvements. The chapter also does not prevent a person from performing acts authorized under another license or registration issued by the state.

- ✓ Electricians, plumbers, carpenters, and pest control operators are exempt if they do not advertise inspection services
- ✓ The chapter does not override acts authorized under other state licenses or registrations

9.11 Sponsor Eligibility and Substitute Requirements

A professional inspector may sponsor an apprentice or real estate inspector only if they have completed at least 200 real estate inspections as a professional inspector. The commission may substitute relevant experience and additional education for required inspections, but cannot require more than 320 additional hours of core courses, more than 40 hours of field work, or more than seven years of relevant experience. The commission may waive requirements for applicants licensed in another state with substantially equivalent requirements.

- ✓ A professional inspector must have completed 200 inspections to be eligible to sponsor
- ✓ Substitute rules cannot require more than 320 additional course hours or 7 years experience
- ✓ Commission may waive requirements for out-of-state applicants with equivalent licensing

CHAPTER 10

Supplement: Texas statutory disclosures

10.1 Seller's Disclosure Notice for Residential Property (Prop. Code 5.008)

Texas Property Code 5.008 requires a seller of residential real property comprising not more than one dwelling unit to give the buyer a written Seller's Disclosure Notice (TREC form OP-H or substantially similar) on or before the effective date of the contract. The notice reports the seller's actual knowledge of the property's condition as of the date signed and is not a warranty; it now also includes flood-related questions added in 2019. If the notice is not delivered on or before the contract date, the buyer may terminate the contract for any reason by written notice within 7 days after receiving it. Exempt transfers include court-ordered transfers, foreclosure and trustee sales, transfers by a fiduciary administering an estate or trust, transfers between co-owners, spouses or lineal relatives, transfers to or from a governmental entity, and a new residence never occupied for residential purposes. Source: Tex. Prop. Code 5.008

- ✓ Applies to residential property with not more than one dwelling unit; delivered on or before the contract effective date.
- ✓ Buyer may terminate for any reason within 7 days after receiving a late notice.
- ✓ Notice reflects seller knowledge only; it is not a warranty and does not replace inspection.
- ✓ Exempt: new never-occupied homes, foreclosure/trustee sales, court-ordered, fiduciary, co-owner/spouse/relative and governmental transfers.
- ✓ Since 2019 the notice includes flood history, floodplain, reservoir and flood insurance questions.

10.2 Statutory Contract Notices: MUD, PID, Coastal, Annexation and Other Texas Disclosures

Texas law requires several statutory notices in addition to the seller's disclosure. A seller of property in a municipal utility district or similar water district must give the buyer the district's statutory notice of tax rate, bonded indebtedness and fees before the contract is executed, and the notice must be signed and acknowledged (Water Code 49.452); failure lets the buyer terminate. Property in a public improvement district requires the Notice of Obligation to Pay PID Assessment before the contract (Prop. Code 5.014), and the seller must also disclose whether the property is in a certificated water or sewer service area (Water Code 13.257) or subject to annexation or is in an extraterritorial jurisdiction (Prop. Code 5.011). Coastal property requires the public beach access notice (Nat. Res. Code 61.025) and the coastal area natural hazards notice (33.135), and property with a propane distribution system or private transfer fee has its own notices (5.011, 5.205). Property in a floodplain or with certain lien or restrictive covenant history is addressed in the seller's disclosure and in TREC promulgated forms; landlords must also give tenants a flood disclosure notice (Prop. Code 92.0135). Source: Tex. Water Code 49.452, 13.257; Tex. Prop. Code 5.011, 5.014, 92.0135; Tex. Nat. Res. Code 61.025, 33.135

- ✓ MUD notice must be given and signed before contract execution; buyer may terminate if omitted.
- ✓ PID assessment notice (Prop. Code 5.014) is required before the contract and is recorded.
- ✓ Coastal property needs the public beach (61.025) and coastal hazard (33.135) notices.
- ✓ Seller must disclose water/sewer CCN service area, annexation exposure and private transfer fee obligations.
- ✓ Landlords must give residential tenants a written flood disclosure (92.0135).

CHAPTER 11

Supplement: landlord-tenant law

11.1 Residential Security Deposits: 30-Day Return and Bad-Faith Penalties

Texas sets no statutory cap on the amount of a residential security deposit, but Property Code Chapter 92, Subchapter C governs its return. The landlord must refund the deposit, less lawful deductions with a written itemized list, within 30 days after the tenant surrenders the premises; the landlord has no duty to refund or itemize until the tenant gives a written forwarding address. Deductions may not be taken for normal wear and tear. A landlord who retains a deposit in bad faith is liable for $100 plus three times the amount wrongfully withheld plus attorney fees, forfeits the right to withhold any part of the deposit, and bears the burden of proving deductions are reasonable. A tenant who withholds the last month's rent on the ground that the deposit covers it is presumed to act in bad faith and is liable for three times the rent withheld plus attorney fees. Source: Tex. Prop. Code 92.101-92.109

- ✓ Deposit must be returned within 30 days after the tenant surrenders the premises.
- ✓ Landlord need not refund or itemize until the tenant provides a written forwarding address.
- ✓ Normal wear and tear may not be deducted; deductions require a written itemized list.
- ✓ Bad-faith retention: $100 plus 3 times the amount wrongfully withheld plus attorney fees.
- ✓ Tenant withholding last month's rent against the deposit is liable for 3 times the rent withheld.
- ✓ Texas has no statutory limit on the amount of a residential security deposit.

11.2 Landlord Repair Duties, Lockouts, Late Fees, and Eviction Notice

Under Property Code 92.052 a landlord must make a diligent effort to repair a condition that materially affects the physical health or safety of an ordinary tenant after the tenant gives notice and is current on rent; a reasonable time is presumed to be 7 days. Tenant remedies (92.056, 92.0561) include termination, repair-and-deduct limited to the greater of one month's rent or $500, and judicial remedies; landlord retaliation within 6 months is prohibited (92.331). A landlord may change locks for delinquent rent only after advance written notice and must provide a new key on request at any hour regardless of payment (92.0081), and may not interrupt utilities except for bona fide repairs or emergencies (92.008). Late fees may not be charged until rent remains unpaid two full days after the due date and must be reasonable; a fee is presumed reasonable if it does not exceed 12 percent of monthly rent for 4 or fewer units or 10 percent for more than 4 units (92.019). Eviction (forcible detainer) under Chapter 24 requires a written notice to vacate, 3 days by default unless the lease provides otherwise, followed by suit in justice court; self-help eviction is prohibited (verify 2026 procedural changes from SB 38). Source: Tex. Prop. Code 92.052-92.0561, 92.0081, 92.019, 24.005

- ✓ Landlord must repair health/safety conditions after notice; 7 days is presumed a reasonable time.
- ✓ Repair-and-deduct is capped at the greater of one month's rent or $500.
- ✓ Late fee only after rent is unpaid 2 full days; safe harbor 12% (4 or fewer units) or 10% (more than 4 units).
- ✓ Lockout for unpaid rent requires prior written notice and a new key must be given on request regardless of payment.
- ✓ Default notice to vacate is 3 days in writing before filing eviction in justice court; landlord must give

tenant a copy of the lease within 3 business days.

CHAPTER 12

Supplement: Texas property law

12.1 Texas Homestead Protection and Home Equity Lending Limits

The Texas Constitution (Art. XVI, 50-51) and Property Code Chapter 41 protect the homestead from forced sale by general creditors. An urban homestead may be up to 10 acres in one or more contiguous lots; a rural homestead may be up to 200 acres for a family or 100 acres for a single adult. Forced sale is allowed only for constitutionally listed debts such as purchase money, property taxes, owelty of partition, mechanics liens for improvements contracted in writing, refinances, home equity loans, reverse mortgages and certain HOA or federal tax liens. A home equity loan may not exceed 80 percent of fair market value including all liens, may close no sooner than 12 days after application, carries a 3-day right of rescission, is limited to one per 12-month period, and lender fees are capped at 2 percent of the principal. Both spouses must join in any sale or encumbrance of the homestead regardless of which spouse holds title (Family Code 5.001). Source: Tex. Const. art. XVI, 50-51; Tex. Prop. Code 41.001-41.002; Tex. Fam. Code 5.001

- ✓ Urban homestead: up to 10 contiguous acres; rural homestead: 200 acres (family) or 100 acres (single adult).
- ✓ Homestead cannot be sold for general unsecured debts; purchase money, taxes, improvement, owelty, refinance and home equity liens can foreclose.
- ✓ Home equity loans: total liens limited to 80% of fair market value; one per year; 12-day wait after application; 3-day rescission; 2% fee cap.
- ✓ Both spouses must sign to convey or encumber the homestead, even if only one is on title.
- ✓ A pretended sale or a disclaimer of homestead status is void against the homestead claimant.

12.2 Community Property, Spousal Joinder, Deeds and Recording

Texas is a community property state: property acquired during marriage is presumed community property (Family Code 3.003), while property owned before marriage or acquired by gift, devise or descent is separate property (3.001). Regardless of ownership, both spouses must join in a conveyance or encumbrance of the homestead (Family Code 5.001), so a license holder should obtain both signatures on listings and contracts involving a married seller. A conveyance of real property must be in writing, signed by the grantor and delivered (Property Code 5.021); to be recorded it must be acknowledged before a notary or witnessed (12.001). Recording is with the county clerk of the county where the land lies; an unrecorded conveyance is void as to a creditor or subsequent purchaser for value without notice (13.001), and Texas imposes no transfer tax, only county recording fees. Adverse possession periods are 3, 5, 10 and 25 years depending on color of title and payment of taxes (Civ. Prac. & Rem. Code 16.024-16.028). Source: Tex. Fam. Code 3.001-3.003, 5.001; Tex. Prop. Code 5.021, 12.001, 13.001

- ✓ Property acquired during marriage is presumed community property; gifts, inheritance and pre-marital property are separate.
- ✓ Both spouses must sign to sell or mortgage the homestead, even if title is in one name.
- ✓ A deed must be in writing, signed by the grantor and delivered; acknowledgment is needed to record.
- ✓ Unrecorded deeds are void against subsequent bona fide purchasers and creditors without notice.
- ✓ Texas charges no deed or mortgage transfer tax; adverse possession periods are 3, 5, 10 and 25 years.

12.3 Executory Contracts (Contracts for Deed) for Residential Property

Property Code Chapter 5, Subchapter D heavily regulates executory contracts (contracts for deed and lease-options combined with purchase) for residential property used as the buyer's residence, other than contracts performed within 180 days. Before signing, the seller must give the buyer a survey or plat, disclosures of the property condition and of all liens, and a financing disclosure of price, interest rate and payment schedule; the seller must record the contract within 30 days after execution (5.076) and provide an annual accounting statement each January (5.077). If the buyer defaults, the seller must give a 30-day written notice with a right to cure, and once the buyer has paid 40 percent of the price or 48 monthly payments the seller may not forfeit but must foreclose under Section 51.002 (5.066). The seller generally may not sell under an executory contract property subject to a lien except as permitted (5.085), and the buyer may at any time convert the contract to a deed and purchase-money lien (5.081). Violations expose the seller to liquidated damages and Deceptive Trade Practices Act liability. Source: Tex. Prop. Code 5.061-5.085

- ✓ Applies to residential executory contracts longer than 180 days.
- ✓ Seller must record the contract within 30 days and give an annual accounting statement each January.
- ✓ Default requires 30-day written notice and opportunity to cure.
- ✓ After 40% paid or 48 monthly payments, seller must foreclose under 51.002 rather than forfeit.
- ✓ Buyer may convert the executory contract to a deed with a vendor's lien at any time.

CHAPTER 13

Supplement: property tax

13.1 Texas Property Tax: Homestead Exemptions, Appraisal Cap, Protest and Payment Dates

Texas has no state income tax and no real estate transfer tax; ad valorem property tax is the main real estate tax and is administered locally by the county appraisal district and collected by local taxing units. Property is appraised at market value as of January 1, when the tax lien attaches; notices of appraised value are sent in spring and an owner may protest to the Appraisal Review Board by May 15 or 30 days after the notice, whichever is later. A general residence homestead is exempt from a set amount of school district taxes ($100,000 since 2023; 2025 legislation approved by voters raised it to $140,000), with additional exemptions for owners 65 or older or disabled, an optional local exemption of up to 20 percent, and a school tax ceiling for over-65/disabled owners. The appraised value of a homestead may not rise more than 10 percent per year plus new improvements (Tax Code 23.23). Taxes are due on receipt of the bill and become delinquent February 1, with penalties and interest thereafter; qualified agricultural (open-space) land is appraised on productivity value with a rollback of 3 years of tax savings if use changes. Source: Tex. Tax Code 11.13, 23.23, 23.55, 31.02, 41.44

- ✓ Appraisal date and lien attachment: January 1; taxes delinquent February 1.
- ✓ School homestead exemption: $100,000 (2023), raised to $140,000 by 2025 legislation.
- ✓ Homestead appraised value increase capped at 10% per year.
- ✓ Protest deadline: May 15 or 30 days after the appraisal notice, whichever is later, to the Appraisal Review Board.
- ✓ Texas has no state transfer tax and no state income tax; agricultural rollback covers 3 years.

CHAPTER 14

Supplement: foreclosure and redemption

14.1 Nonjudicial Foreclosure Procedure and Redemption Rights

Texas is a deed-of-trust, nonjudicial foreclosure state (title theory in practice). Under Property Code 51.002 the trustee's sale is held the first Tuesday of the month between 10 a.m. and 4 p.m. (first Wednesday if the Tuesday is January 1 or July 4) at the area designated by the county commissioners court; at least 21 days before the sale notice must be posted at the courthouse door, filed with the county clerk, and mailed by certified mail to each debtor. For a residence the borrower must first receive a written 20-day notice of default and opportunity to cure. There is no statutory right of redemption after a deed-of-trust foreclosure; the debtor may raise fair market value as an offset in any deficiency action, which must be brought within 2 years (51.003). Home equity loans and reverse mortgages require a court order under Rule 736 before foreclosure. Tax-sale redemption is 2 years for a residence homestead, agricultural land or mineral interest (25 percent premium first year, 50 percent second) and 180 days for other property (Tax Code 34.21); HOA assessment foreclosures allow a 180-day redemption (Prop. Code 209.011). Source: Tex. Prop. Code 51.002-51.003, 209.011; Tex. Tax Code 34.21

- ✓ Sale: first Tuesday of the month, 10 a.m. to 4 p.m., at the county-designated location.
- ✓ Notice of sale at least 21 days before: posted at courthouse, filed with county clerk, mailed certified to debtor.
- ✓ Residential borrowers get a 20-day notice to cure before the notice of sale.
- ✓ No statutory redemption after deed-of-trust foreclosure; deficiency suit within 2 years with fair-market-value offset.
- ✓ Tax sale redemption: 2 years for homestead/ag/minerals (25%/50% premium), 180 days for other property; HOA foreclosure redemption 180 days.

CHAPTER 15

Supplement: condominium and HOA law

15.1 Condominium and Property Owners Association Disclosures and Resale Certificates

For a condominium resale, Property Code 82.157 (Uniform Condominium Act) requires the seller to furnish the buyer the declaration, bylaws, rules and a resale certificate from the association stating assessments, unpaid amounts, reserves, pending litigation and insurance. A seller of property in a subdivision with a mandatory property owners association must give the buyer the statutory Notice of Obligations Related to Membership in a Property Owners Association (Prop. Code 5.012) before the contract is signed; if it is not given, the buyer may terminate. Chapter 207 lets a purchaser or owner request subdivision information (resale certificate) that the association must deliver within 10 business days, with fees capped by statute. Chapter 209 (Residential Property Owners Protection Act) requires notice and an opportunity to cure before fines or foreclosure, mandates payment plans, and gives a 180-day right of redemption after an assessment-lien foreclosure. TREC promulgates an Addendum for Property Subject to Mandatory Membership in a Property Owners Association for these transactions. Source: Tex. Prop. Code 82.157, 5.012, 207.003, 209.006-209.011

- ✓ Condo resales require a resale certificate and governing documents under Prop. Code 82.157.
- ✓ Mandatory POA notice (5.012) must be given before the contract; buyer may terminate if it is omitted.
- ✓ Subdivision resale certificate must be delivered within 10 business days of request under Chapter 207.
- ✓ HOA must give notice and chance to cure before fines or foreclosure; 180-day redemption after HOA foreclosure.
- ✓ Use the TREC promulgated POA addendum when the property is in a mandatory association.

CHAPTER 16

Supplement: TREC commission rules

16.1 TREC Advertising, Assumed Name and Team Name Rules (22 TAC 535.154-535.155)

TREC rule 535.155 defines an advertisement as any communication that induces a person to use a license holder's services, including signs, websites, social media and business cards. Every advertisement must include the name of the broker or the broker's registered assumed business name in a font at least half the size of the largest contact information for any sales agent or team, and must not mislead, imply that a sales agent is a broker, or advertise property without the owner's consent. Assumed business names and team names must be registered with TREC before use (535.154); a team name must end with the word team or group and may not contain words such as brokerage, company, realty or associates that imply it is a brokerage. Rebates or inducements may be offered only with the broker's consent and must disclose that the rebate is subject to the client's lender or other party consent. A sales agent may not advertise without the sponsoring broker's name, and a license holder acting as a principal must disclose license status in writing (535.144). Source: 22 TAC 535.154, 535.155, 535.144

- ✓ Broker name or registered assumed name must appear in every advertisement at least half the size of the largest contact information.
- ✓ Team names must be registered with TREC, end in team or group, and not imply a separate brokerage.
- ✓ Ads may not imply a sales agent is a broker or advertise property without the owner's consent.
- ✓ Assumed business names must be registered with TREC before use.
- ✓ License holders acting as principals must disclose in writing that they hold a license.

CHAPTER 17

Supplement: fair housing

17.1 Texas Fair Housing Act (Prop. Code Ch. 301)

The Texas Fair Housing Act, Property Code Chapter 301, mirrors the federal Fair Housing Act and protects the same seven classes: race, color, religion, sex, familial status, national origin and disability; Texas adds no additional statewide protected classes, though some cities do by ordinance. It prohibits refusal to sell or rent, discriminatory terms, discriminatory advertising, blockbusting, steering, and discrimination in lending or brokerage services, and requires reasonable accommodations and modifications for persons with disabilities. Exemptions include a single-family home sold or rented by an owner without a broker or discriminatory advertising, owner-occupied dwellings of four or fewer units, religious organizations and private clubs, and housing for older persons, but license holders are never exempt. The Act is enforced by the Texas Workforce Commission Civil Rights Division, a substantially equivalent agency; a complaint must be filed within 1 year of the alleged act and a civil suit within 2 years. TREC may also discipline a license holder for fair housing violations under TRELA 1101.652. Source: Tex. Prop. Code 301.001-301.171; Tex. Occ. Code 1101.652

- ✓ Texas protected classes are the same seven as federal law; no additional statewide classes.
- ✓ Enforced by the Texas Workforce Commission Civil Rights Division.
- ✓ Administrative complaint within 1 year; civil action within 2 years.
- ✓ Owner exemptions are lost if a broker is used or discriminatory advertising is published.
- ✓ Violations are also grounds for TREC discipline against a license holder.